Natura Breuium in *Engliſhe newly corrected:*

with diuers additions of ſtatutes, Booke caſes, Plees *in Abatement of the ſayed Writts, and their Declarations*, and Barres to the ſame added and *put in their places moſt conuenient.*

(***)

Cum Priuilegio ad imprimendum ſolum.

(.˙.)

Staff. ss. Edwrus Mainwaring ar. vic. com. predict. custod. gaol. Ibm ac Ballio Hundred. de offlow necnō Tho. Blew Tho. Adcock Balliis meis p hac vice tātū virtute bris dom. Rg. mihi direct. vobis et cuilibet vestrū mando q. capiat. seu unus sive aliquis vestrū capiat. Willū Bird si &c. et eū &c. Ita q. habeam corpus eius corā dict. dom. Reg. apud West. die veneris prox. post quin. Sancti Martini ad respondend. Robto Phillips ar. de plito trnsgr. et qualiter hoc &c. dat. sub sigill. officii mei 25 die octobr. anno regn. dom. Regis nunc 31. annoq. dom. 1679. p eundē vic.

Stafford. ss. Edwin. Skrimshire Ar. Vic. com. predict. Custod. Gaolæ ibidem ac Ballino Hundred. de offlow necnō Thome Adcocke Ricō Osborne Willō Smyth Ballinis meis in hac parte coniunctim et divisim, salutem. Virtute Brevis Dom. Regis mihi direct. vobis et cuilibet vestrum mando quod capiat. seu unus sive aliquis vestrum capiat. Johēm Bird si, &c. et eum salvo Custod. ita quod habeam corpus eius coram Justic. dict. dom. Regis apud Westm. a die paschæ in quinque septimanas ad respondend. Francisco Wolferston ar. de placito trnsgr. et qualiter hoc &c. Dat. sub sigillo officii mei decimo tertio die Martij Anno Regni dom. Regis nunc &c. vicessimo primo annoq. dom. 1668

Allowed by the sheriff against one defendāt only. p Jenny bel

IT is sayed that there is a Writ of Right patent, and a Writ of right close. A Writ of Righte patent shall bee first brought in the Court of the Lord, of whom ꝑ land is holden (if it be holden of anie other then ꝑ king) And if it be holden of the king, then it shall be brought in the court of the king. And know yee, that this Writ may be remoued out of the Court of the Lord into a County by a Tolt, and out of the Countie to the common Bank by a Pone, if the demandant that will. And for that, this clause is put in the Writ of Right patent, & nisi feceris, vicecomes talis comitatus faciet &c. For the Writ shall bee all times in the custodie of the demaundant, for that, that if the lord & the shirife wil not to him do right, he may remoue the plee into the common Bank, as is aforesaid, not puttyng cause in the Pone. But in case that it be remoued out of the countie into the common Bank by a Pone at the suit of the tenant, it behoueth to put the cause in the Pone, as it appeareth plainely in the Register. And also the said plee may be remoued out of ꝑ Court of the Lord immediatly to the common bank by a Recordare ẅ cause, at the suit of ꝑ tenant. And know ye, that this Writ hath but ij. issues, that is to say, ioyning the mises vpon the mere, & that is, to put him selfe in ꝑ great assise of our soueraigne Lord the king, or to ioyne batail, and that shall be in the election

the tenant. And for that it behoueth that the demaundant haue al times his champion ready, or els he may be deceiued. And when batail shalbe ioyned, & when great Assise, look in the Treatise of the great assise to be chosen, amonge other statuts. And it is sayed, that a deed of the auncestor with a warranty is a barre, if the demandant bring this writ of his owne possession, and not of the possession of his auncestor, for that that he may not ioyn the issue, as afore said. And the iudgmēt of this writ is final. And know ye, that it is no plee in this writ, to say that the tenant before this time recouered against the demādant by action tried in any other writ, then in a writ of Right.

Know ye, that if the ple be remoued by a Pone out of the countie into the commō bank is is not necessarie that the shirife retourne the Tolt, by which the plee is remoued out of the Court of the Lord into the countye, for that, that the plee is come into the bank by a warrant, which came to the Shirife from thence which is more heygher then the Tolt is. T. 20. E. 3.

Know ye that a recouerie in a Cessauit agaynst the demaundants selfe, is a good barre in a writ of Right. And that is by reason of the statute of Glo. ca. 3. M. 31. E. 1.

But know ye that a recouerie in Assise against him selfe is no barre. M. 8. E. 2.

And know ye, that these persons shall ioine the mise in a writ of Right: An infant shall ioyne the mise and trye it by battaile.

And

And ꝑ tenant for terme of life shal ioyn in this forme, that is to say, that hee hath better right to hold for terme of his life, the reuersion to one such. M.9.E.4

The husband and the wife shall ioyn the issue as in the right of the wife, & the iudgement shall be that the husband & the wife and the heires of the wife shal hold quit of the demaundant & of his heires. M.31.E 3.

A Prebendarier shall ioyne the mise by his attourney. T 14.E.3

The husband and the wife were receiued for default of the tenant for terme of life, and they ioyned the mise in such forme, that is to say, that the tenant for terme of life hath better right to hold in the right of the husband by a grant made by the husband and his wife by fine, saueinge the reuersion to them, then the demaundant hath &c. P.13.E.2.

And if a writ of Right be brought against fower, euery one of them ioine the mise. M. 22.E.3.

And if a parson ioyne the mise without prayinge in ayd of the Patron and the Ordinarie, & after make default, whereby the demaundant doth recouer, his successor shall haue for ꝑ default one Iuris vtrum &c. P.8.E.2.

And know ye, that the parties after the battail ioyned shall finde suretie for theyr champions, that is to say, ij pledges for euerie one of them, but first the tenant shall finde suretie: but these champions shall not be demanded vpon their sureties found, as if they were let to mainprise: therefore enquire the

diuersitie.

And know ye, that it is a good challeng to say that the champion is a villein. 1. H. 6.

And know ye, that these champions shalbe appareled with white leather, and a coate of red Sendal, painted with the Armes of his master, if he haue Armes, & a Knight shall beare his staffe, & a custrell his target, which shalbe of the colour of his coate. And if the champion be at the barre his target shall be reared to the backe of the champion, so that the chiefe part of the target passe the hiest of his head, and it shall be holden to the back of the champion as longe as he standeth at the barre: and then the Justices shall charg the parties principally to suffer ꝑ harnes of their champions to be safely kept in a place. And these Justices shal looke that there be no maner of fraud, nor disceit entended. And if default be found in ꝑ harnes, as rolles of prayers or saints, or other thinges like, it shalbe amended. And ꝑ targets shalbe of one lēgth & breadth: and also their staues shall be of one lēgth, that is to say, fiue quarters, and these two shalbe put out of their harnes. H 29 E 3

The writ is such.

HEnricus octauus dei gratia, Angliæ, Franciæ & Hiberniæ Rex, fidei defensor, & in terra Anglicanæ ecclesiæ & Hiberniæ supremum caput: balliuis suis de A. salutem. Precipimus vob' quod sine dilatione plenum rectum teneatis I. de B. de vno messuagio cum pertinentibus in D. quod clamat tenere de nobis per liberum seruitium vnius denarij per annum pro omni seruitio, quod W. R. ci deforceat

ceat. Et nisi feceritis, vicecomes Southē fac', ne amplius inde clamorem audiamus pro defectu recti. Teste meipso apud west. &c.

A writ of Right in London is such.

REx &c. Maiori & vic' Londoñ salutem. Præcipimus vobis quòd sine dilatione plenum rectum teneatis A. de vna shopia cum pertinentibus in Lõdon, quam clamat tenere de nobis p liberum seruitium vnius denarij per annum quam W. C. ei deforceat. Ne amplius inde clamorem audiamus pro defectu recti. Teste &c.

A Writ of right in London (which is directed to the Maior & to the shirif of ꝑ same City) shall be open & not close, for that, that it is alwel directed to the Maior as to the shiriffes. And for that, there shal not be said & nisi feceritis, vic' Southē faciet &c. For the plee shall not be remoued from thence, but in case the tenant vouch a forreine to warrantie in the said Citie, then the said Maior and the shiriffes shall adiourne these parties before the Iustices of the common Banke at a certeine day, & shall send the Record (which is before them) to the said Iustices. And when they haue determined the warrãty, they shal resend the said record by a Writ of Iudgmẽt & commaund the said Maior and Shiriffes that they shall proceed to the plee in the said citie: For the Iustices haue no power to proceed after the warranty determined. And the Maior & shirifes haue no power to make proces against the forein which is vouched, as it appeareth by the statute of Glouc. chap.

xij.

xij, which beginneth: Puruiew est ensement que si home soit impled &c. & know ye, that where the kinge hath graunted franchises to the citie of London, or to any other towne, that they shall not be impleded of lands or tenements within their franchises, ne of any other thing out of the same frãchise, they may haue a bill which is called Freshforce in the nature of Assise of Nouel disseisin, Mortd, or Intrusion. But it behoueth that it bee brought within xl. dayes after title growen, & if not then it behoueth that the said Citizens haue other writs out of the Chauncerie into the Hustinges of London, & if a foreiner bringe Assise or other writ of tenements in London, or in other towne franchised retornable before the Justices, Then the bailif of ẏ franchise may come and demaund knowledge of the plee by a writ of the Kinge, and they shal geue a certeine day in the franchise, and then are they of the franchise as Justices of the King. But all maner of plees personalls, as Det, Trespas or Couenants, may be pleded in their franchises by plaint, without bringing any writ at the common law: there they may demaund their knowledg and franchise, vt supra: But know ye, that if the franchise be not demaunded in time, that is to say, if proces be sued vnto the Exigent, ẏ franchise shall not be allowed, for that, that in such case the franchise may not make right according to the proces awarded in the Court of the king. And also in a Quare impedit, though the franchise be challenged, it is not allowable

able, for that that the execution of that may not be awarded in the franchise. And also in plee of land, if the tenant make default, then the Steward, or the bailifs of the franchise, at the graund Cape returnable shal not haue knowledge for that that he may not geue iudgement vpon the default recorded in the court of the king. As appeareth Hillarij 40. E. 3 in the beginning.

It is to be knowen, that euery writ which toucheth free hold in London ought to be directed to the Maior & Shirifes of London. But all other writs which are at the cõmon law in the same citie ought to be directed to the Shirifes onely.

A writ of right of Dower.

REX A. salutem, Precipimus tibi, quod plenum rect' teneas D. quę fuit vxor C. de tertia parte vnius messuagij cum pertiñ in L. quam clam tenere de te, s. de domino in dotem per liberum seruicium tertię partis vnius denarij per annum pro omni seruic' quod H. ei deforceat. Et nisi &c. ne amplius &c.

THis writ of right of Dower lieth where a woman hath receiued part of her dower, and shee will demaund the remenant against the same tenaunt in the same towne, she shal be compelled to the foresaid writ, & the said writ shalbe directed to the heire or his gardein, if he be in ward. But if the heire be in so great pouertie that he hath no court, then it shal be directed to the chiefe Lord for default of the heire. And this writ is remoua-

ble,

ble, if the Lord will not do right to the party as afore is said in a writ of right patent. And where a woman is endowed and after is disseised, and the disseisor continueth long his possession, and after the woman putteth him out, and the disseisor doth recouer by assise, the woman hath no recouerie, but by a writ of right of dower, as it is said. And know ye also, that if the woman hath recouered part of her dower, and part from her be deforced, or if shee recouer al her dower saue a certeine parcell thereto belonging, in these two cases the woman shall be compelled to demaund it, by a writ of right of dower. And know ye that in euery maner of bailiwik, or office, in which the husband of the wife hath fee, which Bailiwike or office the wife her selfe (or any other) in her name may sufficiently keepe, in all such offices or Bailiwike, she shal haue dower. But if it be the office of the Steward ship, or Marshalship of England, which two offices shee cannot by her selfe nor by deputie take vpon her, therefore shee shall not be endowed of them.

Know ye that a woman shall haue a writ of right of Dower of the halfe after the vsage and custome (as in Kent) & other such places called Gauelkind. But if the woman commit fornication, or take a husband, shee is barred of all her dower. As it appeareth by the statute of Prerogatiua regis in the end Cap. xvij. But if shee will liue without a husband shee shalbe endowed of the halfe of all the land.

Know

Know ye that a woman ſhall not haue dower of Eſtouers, that is to ſay, Houſebote, and Heybote, belonging to the freehold of her huſband. For that, that if her huſband had been deforced of the profit, or his heire of two parts none of them ſhould haue a Precipe quod reddat. For if the wife ſhould haue a Precipe quod reddat the heire ſhould haue it alſo, ſo that euery of them ſhall haue as much as the huſbãd had. And for that ſuch profits may not be parted, as charcoles in the woods of any other, Ne foſter in fee, ne chamberlain. And if ſuch profit deſcend to fiue parceners, euery one ſhall not haue ſuch profit, but one parcener ſhall haue the whole profit, & theſe other ſhall haue allowance. And ſo the wife ſhalbe allowed for her dower. M. 2. E. 2.

A writ of Dower, whereof ſhee hath nothing.

REx vic' Midd' ſalutem, precipe A. quod iuſte &c. reddat E. quæ fuit vxor C. rationabilem dotem ſuam, quæ eam contigit de libero tenemento, quod fuit prædicti C. quondam viri ſui in N. vnde nihil habet vt dic'. Et vnde queritur quod prædictus A. ei deforceat niſi &c.

THis writ of Dower Vnde nihil habet, lyeth in many maners: that is to ſay, if a man marrie a woman generally ſpeaking nothing of dower, then after the death of her huſbãd, the wife may recouer the third part of all ſuch lands or tenements which were to the huſband (during ỹ marriage betwixt them) by this writ aforeſaid.

But

But if shee hath receiued part of her dower of one man, of those landes and tenements in one towne, if shee will sue for the remnant which is behind against the same tenant of those lands & tenements in the same towne, then shee is put to her writ of right of Dower, and not to the foresaid writ. And the proces is graund Cape & petit Cape.

But know ye, that if a man be seised of four acres of land in one towne, and take a wife, and make a lease of one acre for terme of life of the lessee, and hath issue and dieth seised of these three acres, and his heire entreth: & endoweth his mother of these three acres, & after the tenant for terme of life dieth, and the issue entreth (as in his reuersion) now the wife shall haue a writ of Dower Vnde nihil habet, of the acre which was leased, and not a writ of right of Dower, for that that the heire was not tenant of the free hold of that acre when he endowed his mother of these other three acres.

Another case is, when a man hath maried a woman, and shee is endowed at the church dore of certaine lands & tenements in a place especiall, in this case, though the husband haue more or lesse when he dieth they shal recouer by the forelaid writ al those lands and tenements which were to her assigned at the church dore in name of her dower. But if shee will, shee may refuse this assignement, & take her dower at the common law.

The third case is such, when the father graunteth to his sonne to endow his wife of

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all ſuch lands & tenemẽts that to him ought to diſcend by the ſame father, and after that the ſonne dieth, the wife ſhal recouer ꝑ third part of all the fathers land. But in this caſe ſome men ſay that if ꝑ wife haue no writing of this endowmẽt ſhe ſhal recouer. F.40.E3

And note ye, that the wife ſhalbe endowed of lands & tenements which her huſband had in fee ſimple, or fee taile. But in ſome caſe the wife ſhal be endowed where her huſband was not ſeiſed, ne neuer in poſſeſſion. As if my father die ſeiſed of certeine lands, & tenements in his demeane as of fee, and no man entreth in the land, and I die, my wife ſhall be endowed, and that is in fauour of dower, and yet I was not ſeiſed of the land.

And know ye, that in theſe caſes following the wife ſhall not be endowed of lands or tenements, in which her huſband was ſeiſed in fee ſimple, or fee taile during the mariage.

As if land be geuen to him and to his firſt wife, and to the heires of their two bodies begotten, in this caſe the ſecond wife ſhal not be endowed. Or if the huſband commit felonie, for the which he is attainted, though after the ſaid attainder he purchaſe his charter of pardon of al thoſe lands whereof he was ſo ſeiſed before ꝑ ſaid attainder. But of lãds purchaſed by the huſband after that he hath his charter of pardon, ſhee ſhal haue dower. Or in caſe that my auncеſter hold certaine land of the king in chiefe and die ſeiſed, if I enter into my heritage without proces of the law, & die ſeiſed before that I haue a charter

of

of pardon of the king for my entrie, my wife shall not be endowed of the land. Looke in Prerogatiua regis, Cap. xiiij. Or in case the tenements be recouered against the husband by action tried. Or by action against her husband rightfully without deceit or collusion pleded, and iudgement of the Court. Or if perpetuall deuorce be had betweene the husband and his wife. Except it be because of chastitie. Or if shee go away from her owne husband with another man, and not reconciled by her husband of her good will, without cohertion of holy church. Or if her husband be villaine. Or if her husband die within the age of vij. yeres. Or if a man marrie his niece. Or if her husband lose his land by battaile or by great assise. Or if the husband haue but estate for terme of life or for yeres.

Know ye that a woman shall not be endowed of the goods of her husband, for the husband may sell them or geue them at his pleasure. H.7.H.8.

A woman shall not be endowed of estouers that is to saie, Housebote, Heybote, for that that if the husband had beene deforced of all, or the heire of two parts, he should not haue had a Precipe quod reddat, as is before saide in a writ of right of dower. H.2.E.2.

In these cases before said, and in many other more: he shall haue no dower, ne recouerie by the said writ.

And know ye, that by the statut of Merton, Cap.1. The wife shall recouer dammages in the said writ: for the lands of which her

her husband died seised. Except the tenant come into the court at the first day, and say that he is readie to yeld to her dower.

And know ye, that this writ shalbe mainteined against whom so euer be in possession of the lands and tenements which were to her husband after the espousels, in what maner so euer that he is in possession. But the wife shall not recouer dammages in these writs but for lands & tenements wherof her husband died seised.

And know ye, that in these cases following the wife shal be endowed of lands or tenements, in which her husband was seised in fee simple, or fee taile during the marriage. T.2.H.2.

Know ye, that a woman shall be endowed of a villaine in grosse, & the writ shalbe de Libero tenemento. T.11.H.4.H.22.E.4.

Know ye, that a woman shall be endowed of a rent charge.

In a writ of dower, the tenant said that her husband was neuer seised. And the demandant said that T. father of the husband of the demandant died seised, by force wherof those lands discended to her husband, and he died before any other estranger entreth. And so seised and of such estate &c. of this season in law the wife shalbe endowed.

The graundfather, father, and the sonne. The graundfather holdeth of the king, and dieth, the father being of full age, hauing a wife and dyeth, before that he sue liuerie or entrie: his heire within age. The eschetour doth

doth ſeaſe the ſonne, & committeth the ward of the bodie & land to a ſtranger, in this caſe the wife ſhalbe endowed, and the writ lieth againſt the gardeine. But if the father had entred, and died before iniurie ſued, the wife ſhall not be endowed. For the ſtatute is Nullum accreſcat ei liberum tenementum. Prerogatiua regis. Capit. 13. M. 4. H. 7. & M. 38. E. 3.

Rent was graunted to a man in fee, and he tooke a wife: and before the day of paiment he died, and the wife brought a writ of dower, and the tenant ſaid, that her huſband was not ſeiſed during the eſpouſels. In this caſe the demaundant may maintaine that her huſband was ſeaſed, and ſhewe the ſpeciall matter in the euidence, for ſhee ſhall not haue the ſpeciall matter by way of plee. T. 11. H. 4.

Tenant in the generall taile made a feoffement in fee, and tooke eſtate againe to him and to his wife in the ſpeciall taile and hath iſſue and the wife dyeth, and after he tooke another wife and he dieth. The ſecond wife ſhal recouer her dower, for that that her huſband was ſeaſed of ſuch eſtate &c. But ſhee ſhall haue the auerment that her huſband continued his eſtate by force of the taile. M. 41. E. 3.

Know ye, that if I enfeoffe one vpon condition that he ſhall enfeoffe another man before ſuch a day, in this caſe though the ſame day he make the feoffement, yet his wife ſhalbe indowed. T. 34. E. 3.

If

If lande be recouered in value against the husband because of a warranty made by his auncestor afore the maryage, yet the wyfe after his death shalbee endowed. For the husband myght haue alyened the land before that he was vouched, and then he should not haue yelded in value. And by consequens the title of the wife is elder. For the title of him which vouchyeth, beginneth but the day of the voucher. T. 5. E. 3.

If the heire after the death of hys father enter and take a wife, and after doth endowe his mother, his wife shalbe endowed of that part wherein that his mother was endowed before. For that, that he was seised of the same lande one time in fee. And if the Lord purchase the demeane, and after the meine dyeth, & the wife recouer her dower by writ shee shall not pay the third part of the rent. For by the purchase the rent was extinguished. And notwithstanding shee shal recouer her dower, yet he may not auowe, for shee is not tenant. M. 25. E. 3.

Lord, Meine, and tenant are, the tenant holdeth of the meine by a penie, & the meine holdeth ouer by xx. s. the meine releaseth to the tenant, all the right that he hath in the lande, and the tenant dyeth, his wife shalbee endowed of the land. And shee shalbe attendant to the heire of the third part of the penie and not of the thirde part of the xx. s. for shee shalbe endowed of the best possession of the husbande.

If I geue land afore the Statute, or at

this day to a man in taile to hold of me by a penie, and after his decease his heire to pay to me xx. d. for euer, he dyeth his wife is endowed of the land, shee shalbe attendant to the heire of the third part of the xx. d. for it is all one rent and of the same rent the land is charged by condition in deede, and she may not haue acquitaunce of the heire, for that that the lande is charged by the deede of the father of whose possessiō she claimeth dower H.22.E.3.

In a writ of Dower brought against the Gardeine, he alleageth that shee hath taken away the infant which was in his warde, & demaund iudgement of dower afore restitution, and that was a good plee: & if shee make not restitution of thinfant in like plite as he was when he was taken away, she shall not haue dower. M.8.E.3.

In a writ of dower the case was such. The father and the sonne are, the father is seysed of three acres of lande, the father dyeth, these three acres discend to his sonne, the sonne taketh a wife, and endoweth his mother of one acre in allowaunce of all her dower, thys dower of olde time deserued is a good plee in barre (if the wyfe of the sonne do bring a writ of dower of that acre against ẏ mother) notwithstanding the endowment agaynst common right. H.9.E.3.

In a writt of Dower brought against a Gardeine, which saieth that the wife withholdeth charters and munymentes concerning the heritage of the infant that is in hys

warde,

warde, and if he would to him haue deliuered the charters, he was ready to yelde dower, and for that that the deliuerie of the charters belongeth not to the Gardein, he shal recouer. So it is thought that this plee lyeth not in the mouth of any man to plead, but onely in the mouth of the heire. M. 10. E. 3.

¶ A writ of Admeasurement of Dower.

REx Vicec' salutem, Questus est nobis VV. fil' & hær' B. vel frater, vel consanguineus de B. quòd A. quæ fuit vxor C. plus habet in dotem de libero tenemento quod fuit prædict' C. quondam viri sui in N. quam habere debet, & ad ipsam pertinet habend'. Et ideo tibi præcipimus, quód iusté & sine dilatione admensurari fac' dotem illam, ita qd' prædicta A. non habeat pl⁹ in dotē de hæreditate prædict' VV. quam habere debet, & ad ipsam pertinet habend' secundum rationabilem dotem & quod prædictus VV. habeat de dote illa id quod habere debet & ad ipsum pertinet habēd', Ne amplius &c.

THis writ of Admeasurement of dower lyeth against the wife. And by the statute of west. 2. ca. 7. which beginneth, Custod' de cætero &c. it is geuen aswel for the gardein as for the heire, but the heire may not haue this writ before that he be of full age. And also he may haue a writ to remoue this writ out of the County into the common Banke.

And know ye, that proclamation shalbe made in this writ of Admeasuremēt, & other writs, as is contayned in the said statut, and therefore looke the statute. And know ye, that the wife of the tenaunt which holdeth

of the kinge in chiefe, may not enter in her dower, before that shee hath receyued her dower by assignement of the kinge. And if she marie without lycence of the king, shee shall make fine. And when she hath her dower assigned, she shal sweare that she shall not marie without lycence of the king. And if she marie without licence vt supra, then the lands that she hath in dower shalbe taken in the hand of the king for the trespas, vt patet in Prærogatiua Regis cap. 4. And she shall make othe, as is aforesaid, and with that accordeth Magna charta cap. 7. which begynneth, Vidua póst mortem mariti sui &c.

¶ A writ of Right, de Rationabili parte.

REx A. de B. salut', Præcipimus tibi quód plenum rectum teneas C. de B. de vno messuagio cũ pertinentijs in London, quod clamat esse rationabilẽ partẽ suã, quæ eum contingit de libero tenemento quod fuit N. patris, matris, fratris, vel sororis sui vel suæ, & tenere de se per liberum seruicium quartæ partis vnius denarij per annum pro omni seruic' quod G. ei deforceat, & nisi feceris &c. ne amplius &c.

This writ of Right de Rationabili parte lyeth at times betwixt vnkles of blonde, as betwixt brothers, sisters, neuewes, or neeces, and not betwixt straungers. And if it bee brought betwixt straungers, the writ shall abate. And also it lyeth where myne auncestour dyed not seised, as if any man whych hath many coheires make a leale for certain lande, rent, or tenement, for terme of lyfe of the

the lesse, or for terme of anothers lyfe, & dyeth before that the reuersion of the said lãds be to him reuerted. And after that the lesse dyeth, or he for whose life the land was let, and one of these coheires (to whom the land ought to reuert) doth enter, and holdeth all the other coheires out; then they which are holden out, shall haue the said writ against that coheir that hath entred into the whole land.

And know ye, that this writ is a writte of Right patent, but it shall not be tried by Battaile, or graunde Assise. And this writ lyeth not betwixt parents which claymeth by discent (after that it passeth the third degree) but it lyeth betwixt bretherne and sisterne, where the one claimeth by charter, and the other by discent, for this writ is not ordeyned, but for to trie the priuity of bloud. And the processe is a Summons, and if he make default at the Summons retournable, then the graunde Cape. But if he come at the Summons retournable, & after make default, then the petit cape shalbe awarded. But if the parties come and pleade to issue, then the processe is against the Jurie, Venire facias, Habeas corpora, and a distres vntill they come.

Also there are other writs, as of Eschete, Droit sur disclaimer, Mesne, Cessauit, Droit de gard, which are called writtes of Right, because that they are taken by reason of the Seygniorie, and not because of dissesin to him, nor to their auncestor.

Item if a man hath iſſue ij. daughters by diuers women and dyeth, they enter & make purparty betwixt them, if the one die without heire general or eſpecial, her part ſhall eſcheate to the Lord, and ſhall not diſcende to her ſiſter of the halfe bloud, but if that ſiſter haue an vncle, the land ſhall diſcende to the vncle, and if the vncle die without heire of his bodie, the lande ſhall diſcende to the other ſiſter which was of the halfe bloud, & econtra, Quære hoc. If a man haue iſſue two ſonnes by diuers women & dieth, the elder doth enter in the land, & dyeth without heire of his bodie, the land ſhall diſcend to his vncle. And if the vncle dye without heir of his bodie, the lande ſhall diſcend to the yonger brother as coſin and heire to him.

¶ A writ of Right cloſe.

REx &c. Balliuis ſuis de A. ſalutem, præcipimus vobis quòd ſine dilatione, ac ſecundũ conſuetudinem manerij noſtri de A. plenum rectum teneatis B. de C. de vno meſuagio cum pertiñ in L. quod ei deforceat, ne amplius &c. Teſte &c.

THis writ of Right cloſe (which is called after the cuſtome of the manor) ſhalbe at all times brought in the Court of auncient demeſne. Alſo euery writ that is ſued vpon the cuſtome of the manor, is called a writ of Right cloſe. And this writ lyeth alwayes betwixt Sokemen, which are of auncient demeſne. And know ye, that a Sokeman is properly ſuch one that is free, and holdeth of the King, or of any other Lord of auncyent

demeſne,

demesne, landes or tenements in villenage, and hee is priuiledged in this maner, that no man ought to put him out of his land and tenemēts, as long as he is able to do his seruices which to his lands & tenemēts belongeth: no man may encrease the seruices of his tenant, nor constraine him to do mo seruices then hee hath done in time past, for that these Bokemen were gaynors of the Lords lands in auncient demeane. And they ought not to be summoned nor trauelled in Iuries nor Enquestes, but in the manors to whom they belong. But yet in pleas of Trespas, Det, & other personal actions, they are summoned as other people. And of these tenants in villenage lwke the first statute of R. the 2. ca. 6. And one Bokeman may not emplede another of lands & tenements within auncient demeane by another writ then this writ of Right close. And in thys writ the demaundant shal make his protestation in the court to sue his writ in the nature of what writ that hee will, as his case lyeth. And knowe ye, that this writ shall not be remoued but for a great cause, that is to say, when the court lacketh power, or for that, that he sayeth that his father was enfeffed by our soueraigne Lord the king, and sayeth that he may not, ne ought not without the king make answere: Or he sayeth that he holdeth the tenemēts which are in demaund at the common law, by fine leuied in the court of the king afore such Justices, & for that the ple may not be sued forth by this writ of

right close in the court of auncient demeane and many other causes are, wherby thys writ may not be remoued by the Recordare, at the suit of the tenaunt. Know ye that all those landes or tenements which are in the hand of the Lord of auncient demeane, are frank fee and pledable at the common law. And all these landes and tenements which are in the handes of those tenants of auncyent demeane are pledable within auncient demeine, and not in other places. And know ye, that the demaūdant in this writ may not remoue the plee for cause, nor without cause, for that that he may not haue a Writ to put it into the Countie, nor remoue the plee out of the countie into the common Bank. But if hee complaine, that right to him is denyed or delayed in auncient demeane. And then he shall haue a writ out of the Chauncery to the Shirife of the same Countie, commaundyng him that he go in his proper person, taking with him fower Knights of his countie, and go to the said Court of auncient demeine to see that right to him be done. The demaundant also may haue other writs to helpe hym, as it appeareth by the Register. And also the tenant may haue a Supersedeas, in case that he bouch a forrein to warraūty in the court of auncient demean, and vpon that one Attachment (if neede be.) And in case that the said landes in auncient demeane bee sold by fine without leeue of their Lord, he may haue a writ of the Chauncerie, for to admit the sayd fine (as it is said) or other

wayes,

wayes, hee may haue a writ of Disceit against his tenant that hath leuied the sayd fine, & recouer his dammages vt dicitur &c.

And note, which are good causes in thys writ to remoue one matter out of one particuler court into the kinges Court &c.

Know ye, that it is said in Assise brought by the Abbot of E. &c. that it is good cause to remoue the plee, to say that the Baylie is seruant of the pleintife. And it was said if one plee be remoued out of the Court of one Lord for one cause, the cause is trauersable: but of one plaint out of the cōnty, otherwise is. Quære the diuersitie.

In Assise of freshforce brought in auncient demesne, the tenaunt sued a Recordare to the shirife, for to remoue the ple, & the cause was that the Bailife had a liuery of the plaintife, and the plaint was of the freeholde. And it was holden that this cause was not sufficient, to put the court out of Jurisdiction, for the iudgement belongeth to the sutors, and not to the Bailie, And not like to one Recordare, to remoue one plee into the Countie, and to shew that the Shirife hath a liuerie of the plaintife, there the plee shall not be demaunded for that, that the one and the other are the Courtes of the king. H. 12. H. 4.

¶ A writ of Right of Pręcipe in Capite.

REx Vic' S. salutem, Præcipe A. quód iuste &c. reddat B. vnum mesuagium cum pertiñ. in C. quod clamat esse ius & hæreditatem suam, et tenere

de

de nobis in capite, &c vnde queritur quòd prædictus A. ei iniustè deforceat, vt dic'. Et nisi fecerit, & prædictus B. fecerit te securum de clamore suo pros. tunc summoñ &c. qd' sit coram Iusticiar' &c. ostensurus quare non fec', & habeas &c.

This writ of Right Præcipe in capite, lyeth for the tenant which holdeth of the kinge in chiefe, as of his crowne, which tenant is deforced, then he shall haue this writ, & this writ is close, and shalbe pleaded in the common bank. For if any tenant which holdeth of any Lord be deforced, he ought to haue a writ of right patent, which writ shalbe determined in the court of the said Lord. And in the same maner, he that holdeth of ỹ king in chiefe as of his crowne (if he be deforced) he shall haue a Præcipe in capite. But by the graunde charter cap. 23. which begynneth. Breue quod vocatur Præcipe in Capite, wil, that this writ shall not be graunted to any man whereby any free man may loose his court. But if any wil haue this writ, he shal sweare by his faith that the tenemẽt which is in demaunde, is holden of the king in chiefe, as of his Crowne, and of none other. But if any man purchase the Præcipe in Capite by false suggestion made in the court of the king, to defraude the chiefe Lord of his Court, then the chiefe lord shal haue a writ to cal againe the plee, directed to the Iustices, that they may enquire if the tenements be holden of the king or of the chiefe Lord. And if it be found, that the tenements are holden of the chiefe Lord, then the demaundant if he will

may

may bring his writ of Right patent in the court of the Lord.

And know ye, that if any man be essoined de Malo lecti in a writ of Right, then if the demaundant will proue that the tenaunt is not so sicke, but that he may come well ynough, and the Enquest finde against the said tenaunt, his essoine shall turne hym in one default. And also this essoine lyeth not but in a writ of Right, where two claymeth by one discent. And that is ordeyned by the statute of West. 2. cap. 17. which begynneth, In itinere Iusticiar. And vpon that the demaundant shall haue a writ out of the Chauncerie to enquyre, if the tenaunt be sicke or not. And also if the tenant hath demaunded lycence to ryse and to appeare in the Court, where the writ of right hangeth, and if to hym it bee denyed, then hee shall haue a writ (which is called) De licentia surgendi &c.

Also the Lord may recouer his court by two other wayes, that is to say, when the writ hangeth before the Iustices, he may come before them and shew his case, how these tenements are holden of hym. And if the Iustices see and finde hys suggestion true, the writte shall abate, vt patet Anno 6. E. 3.

Or if the demaundãt recouer by this writ, the Lord may after bring a writ of deceit against the demaundãt & recouer his damages against him. And after by petition, he shall recouer

retoner his seygniorie of the handes of the king, vt patet.

¶ A writ of Monstrauerunt.

REx Abbati de A. salutem, Monstrauerunt nobis homines de manerio de I. quod est de antiquo dominico Coronæ Angliæ, quód tu exigis ab eis alias consuetudines & alia seruitia quã facere debent & antecessores sui tenentes de eodem manerio facere cõsueuerũt, tẽporibus quibus manerium illud fuit in manibus progenitorum nostrorum quondam Regum Angliæ, vel in manu nostra. Et ideo tibi præcipimus, quòd a præfat hominibus non exigas siue exigi permittas alias consuetudines & seruitia quam facere debẽt, & antecessores sui prædicti facere consueuerunt temporibus prædictis. Et nisi ad mandatum nostrum hoc feceris A. Vicecom nostro de N. id fieri præcipimus. Teste &c.

The writ which is called Monstrauerunt, lyeth for the tenants in auncient demeane which are distrayned for to make other seruices or customes, then they or their auncestours made in the tyme of William Conquerour whyche passeth the tyme of memorie.

And know ye, that this writ shalbee directed to the Lord which demaunderh other seruices or customes (as afore is said) hym commaunding, that he demaund none other seruices and customes, but such that hee and his auncestours hath done in auncient demeane tenure. And also they may haue a Monstrauerunt directed to the Shirife, hym commaunding that he shal not suffer the lord

to

to distraine the said tenants to do other ser-uyces and cuſtomes then they ought to do. And know ye, that if the tenant may not be in quyet ne peace by this writte, they may haue one Attachment against the Lord, that he be before the Iustices of our Soueraigne Lord the king at a certeine day &c. And the names of all the tenaunts shalbe put in the writ, and all the tenaunts together shall sue the said writ, for if one tenant be distrayned to doe other seruices or cuſtomes (then hee ought to do) that shalbe in preiudice of all the other tenaunts, which holdeth by lyke manner of seruices &c. When the Booke of Domelday was made, that is to say, in the tyme of Saint Edwarde the king, all the landes and tenementes which were in hys hands at such time that the booke of Domel-day was made, are called Auncient demeſn. But the landes and tenements which then were in other mens handes, are franke fee, and pledable at the common law. And the proces is a Prohibition, one Attachment, & one Distres &c.

Know ye, that in this writ of Monſtraue-runt, euery one of them may declare seuerall-ly, and so they may not in other writs but in this writ. And they may make one declara-tion (if they will.)

And in this writ, the death of one of these plaintifes shall not abate the writ, by the opinion of the Court. Notwithstandyng that all be not named, yet the writ lyeth for those that wyll sue, by Babb. P. 36. E. 3.

And

And in this writ they shal declare of euery tenure, and that the Lord then distrayned for mo seruices. Or if he demaunde and distraine not, yet the writ lyeth for them, and they shall put in certeine, for what thing hee doth distraine them. But they ought not to alleage the day and place incerteine, no more then in a writ of Weine, for a man shal haue a writ of Weine though he were neuer distrayned. M.18.E.3.

And also it is conuenient, that the plaintif shew, that the manor is auncient demeine. M.39.E.3. And know ye, ỹ this writ lieth not for such men that hold lande in auncient demeane, by court Roll at the will of the Lord. M.41.E.3.

¶ A writ of Ne iniuste vexes.

REx A. salutem. Prohibemus tibi ne iniuste vexes vel vexari permitt' B. de libero tenemento suo, quod de te tenet in N. nec ab eo exigas vel exigi permittas consuetudines & seruitia quæ inde facere non debet nec solet, & nisi feceris vicec' N. id fieri faciet, ne amplius inde clam audiam' pro defectu recti. Teste &c.

This writ of Ne iniuste vexes lyeth where any Lord doth distraine his free tenaunt, which holdeth of him by certein seruices and customes, to do mo seruices or customes then he or his auncestors was wont to do, then the tenant shal haue this writ, as is prouyded in the statute of Magna charta capit. 10. which beginneth, Nullus distringatur &c. And this writt is a prohibition which shalbee di-

dyrected to the chiefe Lord, commaundyng hym that he distraine not his free tenant to do any other seruyce nor custome then the said tenaunt or his auncestor was wont to do. And this writ is a writ of Right patent, for this clause shalbe put in the writ, Et nisi fec' Vic' &c. And know ye, that thys writ is all tymes auncestrel and shalbe determyned by Battayle, or graunde Assise. And the proces is, as in the Monstrauerunt, that is to say, one Prohibition, one Attachment, & Distres

Know ye, that in thys writ he shall not declare when hee distrained, but shall say that he hath hym greeued for mo seruyces &c. M.40.E3.

¶ A writ of Right, Quando Dominus remisit Curiam suum domino Regi.

REx Vicec' Midd' salutem. Præcipe A. quòd iustè &c. reddat B. vnum messuagium cum pertinen' in F. quod clamat esse ius & hæreditatem suam, Et vnde queritur quòd prædictus A. ei iniustè deforceat. Et nisi fecerit, et prędictus B. fecerit te securum de clameo suo pros. tunc sum̃ per bonos sum̃onit̃ prędictum A. quòd sit coram Iusticiarijs &c. ostensurus quare non fecerit. Et habeas ibi sum̃m̃, & hoc breue. Teste. Quia capitalis dominus nobis inde remisit curiam suam.

THis writ of Right, Quia dominus remisit curiam suã domino Regi, lieth in case where lands or tenements (which are with in the seignyorie of any Lorde) are in demaund by a writ of right, & if the Lord hold no court, or other-

otherwise, at the prayer of the demaundant, or the tenant shall send to the court of the king, his writ, to put to the king his court for that time: Saving to him another tyme the right of his seigniorie. And this writ shalbe returned before the Justices of the common banke and shalbe close. And these causes shalbe put in the writt in the ende post Teste me ipso &c. Quia capitalis Dominus feodi illius inde remisit nobis curiam suam &c. And the proces is, Sūmons, grāð cape & petit cape.

¶ A writ of execution of Iudgement.

REx Vicec' Midd' salutem. Præcipimus tibi, quod execuc' iudicij nuper reddit' in Com tuo de loquela quæ fuit in comitatu tuo per breue nostrum de Recto, inter A. petentem & B. tenentem, de vno messuagio cum pertin in L. sine dilatione fieri facias. This writ de Executione iudicij lyeth where any plee is pleaded vnto iudgement, and the Shirife (if the plee be in the countie) or the Bailife (if he be in Court baron, or in hundred) in fauor of the tenant, or by other thaunce prolong or deferre the iudgement, then the demaundant shall haue thys writ. And this writ is one Iusticies. But if hee make execution, then shal there go out a Sicut alias, with a clause (vel causam nobis significes) and after that one Pluries, then shall go out Attachment as in a Repl. And know ye, that this writ lyeth for the demaūdant in a writ of right patēt or close, as wel against the bailife (if the plee be in another court, as against the shirif if the plee be in the cōnty. And also

in

in this writ lieth the proces of a contempt, and may bee made in all other writs if nede be &c.

¶ A writ of False iudgement.

REx vic' Norf. ſalutem. Si A fecerit te ſecuꝝ de clamꝫ ſuo proſ. tunc in pleno comꝫ tuo recordari fac' loquelam, que fuit in eodem comꝫ per breue noſtrum de recto, inter ipſum A. petentem de vno meſſuagio cum pertinentijs in C. vnde idem A. queritur falſum ſibi factum fuiſſe iudicium in eod' comꝫ, & record' illud habeas coram Iuſticiarijs noſtris apud VVeſt. tali die ſub ſigillo tuo & ſigillis iiij. legalium militum eiuſd' comꝫ ex illis qui record' illi interfuerint, & ſumꝫ p bonos ſummꝫ prædictꝫ B. quod tunc ſit ibi auditurꝫ record' illud. Et habeas ibi ſumꝫ nomina prædictꝫ quatuor militum, & hoc breue. teſte &c.

THis writ De falſo iudicio, ſyeth where falſe iudgement is geuen in Countye, hundred or in Court Baron, then he (againſt whom this is geuen) ſhal haue this writte for to cauſe the recorde to bee brought before the Iuſtices of the bank. or in Eire. And know ye, that this writ ſhal extend aſwel to writs of right which are pleadable in county, or in court Baron, without writ. And know ye that a writ of falſe iudgement lieth not in aſſiſe of freſhe force, but a writ of error. And know ye that the proces in this writ againſt the party is a garniſhment vpon his perill, & againſt the ſhirif, or againſt thoſe bailifes, if they in not the commaundement of the king by diſtreſſe &c.

Know ye vpon which iudgements a man

shal haue a false iudgemēt, if one Iusticies be directed to the shirife, to holde plēs notwithstanding ꝑ it be originall, yet he shal haue a writ of false iudgment &c. Trin 34. H. 6.

And in a writ of right, that the tenāt with plede to thenquest, & at the venire fac ꝑ tenāt is essoyned, & hath day ouer, & no proces is made against thenquest, ne cōtinued by ꝑ rol, And also at the same day ꝑ the tenāt hath by the essoine, he is essoined another time, & that is challenged, for that, ꝑ this is ꝑ second day after thenquest, notwithstanding that, ꝑ essoin is allowed. And also after such discontinuāce, if the plaintif be nonsuit in ꝑ writ of right, & iudgment final be geuen, in all these cases he shal haue a writ of false iudgement &c. H. 22. E. 3.

In a writ of right close brought in the court of the lord, the proces with cōtinue vntil the demaundant with recouer, the tenāt with sue a writ of false iudgment, & sheweth ꝑ the land is holden by the verge, in which case he ought to sue by bil, & it was awarded that he should take nothing by his writ of false iudgment, for that, ꝑ if this iudgmēt be reuersed, that shalbe to geue a freehold to the tenant where he lost no such thing. H. 14. H. 4.

Tenant at will of the Lord after the custome of the manor, brought a writ of right, & made his protestation to sue in the nature of assise of Mordauncester: the proces did continue vntil the demādant did recouer, & the tenant brought a writ of false iudgement, & assigned the false iudgmēt, & it was awarded

that

that he ſhould take nothing by his writ for the reaſon aforeſaid H.13.R.2.

In a writ of falſe iudgment, if the ſhirife returne that he went to the court, & that the ſutors ſaid, ꝑ here is no ſuch plee, then there ſhal go out a Sicut alias, & not a writ to cauſe ꝑ ſutors to come: for the ſutors ſhal not come but in caſe where the party wil auerr, that ꝑ record is other then theſe ſutors haue recorded. T.10.E.3.

And know ye, that if the ſhirife geue falſe iudgment without thaſſent of the ſutors, the party ſhal not haue a writ of falſe iudgemēt, but ſhal haue his remedy by bill againſt the ſhirife.

¶ A writ of Error.

REx balliuis ſuis de Oxoñ ſalutē. Quia in recordo & proceſſu, ac etiam in redditione iuditij aſſ. frefcæ forciæ, quæ inter A. & B. ſum fuit & capta corā nobis in curia noſtra Oxoñ ſine breue nro ſecundū conſuetudinē ciuitatis præd' de vno meſuag. cū pertin in Oxoñ, error interuenit manifeſtus, ad graue dampñ ipſius A. ſicut ex querela ſua accepim⁹. Nos errorē, ſi quis fuerit, mod' debito corrigi. & ptib⁹ ꝑd' plenā & celerem iuſticiam fieri volentes in hac parte, vobis præcipimus ꝙ ſi iuditiū inde redditū ſit, tūc recordū & proceſſū aſſiſæ præd' cū omnibus ea tangentibus, nobis ſub ſigillis veſtris diſtinctē, & apertē mittatis, & hoc breue, ita ꝙ ea habeatis a die &c. vbicunq; &c. vt inſpectis recordo & ꝓceſſu ꝑd' vlterius inde fieri faciam⁹ ꝙ de iure & ſecund' legē et cōſuetudiñ regni Angl' fuerit faciend', Teſte &c.

This writ of Error, lyeth in caſe where falſe iudgement is geuen in the common

bank, the which writ shalbe retourned into the kinges bench, & if the false iudgment be geuen in the kings bench, it shalbe reuersed by parliament, or by the kinges great counsaile by petition shewed before them. And if false iudgment be geuen in the Citie of London before the shirifes of the same citye, then shal a writ of Error be sent to the Maior & shirifes, ꝑ they redresse the sayd iudgement before them in the Hustinges next to come. And if they do not redresse the said iudgmēt, then shal there be certaine Iustices assigned by ꝑ kings cōmission to sit at saint Martins the great by Nisi prius, for to redresse the sayd iudgement. And if the default be found in the said Maior & shirifes, they shalbe punished for their misprision, by ordinãce contained in the statute de anñ. 28. E. 3. ca. 10. But in case that false iudgment be giuen before ꝑ Maior then shalbe made one commission to certaine persons as is said. And in case ꝑ a writte of false iudgement be retourned before ꝑ Iustices of the common bank, & the party say that the record is other then the Court recorded, the auerrment shall be receyued by the good countrey, & by those which were present in the court when ꝑ recorde was made, if they come with the other of the countrey by the retorne of the shirif. And if they come not, be the enquest takē by the good countrey, Vt patet in statuto inde. Anñ 1. E. 3 cap. 5.

In a writ of Meine brought against two brothers, ꝑ one hath issue & dieth, & iudgemēt is geuen against ꝑ other by his default, & the

issue

issue & his vncle with bring a writ of error for that, that the seigniorie is departed betwixt males by wage, and assigned for Error the death of his brother at the time of iudgment, & was awarded, that the iudgment be reuersed, for that, that the brother, in this case may not haue a writ of disceit for to reuerse that, that was lost, but onely damages, and this is error in deede. T. 16. E. 3.

One assigned Error, that such a day the Exigent was awarded returnable such a day afore which day the king died, & hee was not but two times demaunded in ỳ time of king Edward the fourth, and three times in time of king Richard the third, & that was holden Error, for that the writ abated in deede, by the death of king Edward, and that is error in deede. And yet this variaunce is not voide, but Error. M. 7. H. 7.

One assigned error, forasmuch as after the issue ioined, and afore the verdict his attorney was deade, that was no error, for that, that by his death the writ abated not, nor the issue waiued ne discõtinued, for that that that he may appeare by another attorney, or proper person. And also he shall not say that his attorney was dead at the time of his plee for that, that it is against the record, but he shal say that another man of the same name appeared, without that, that the attorney was of liue. And know ye ỳ he may not assigne error but in proper person M. 7. H. 7.

Error brought in the bank of the king of a iudgement geuen in a writ of Dower, and

assigned for error, for that, that these tenãts in the writ of dower appeared by attorney, where no warrant of attourney was entered, & prayd a writ to certifie, if any warrãt be or not: & it was awarded that he shall not haue aduantage to assigne that for Error. And diuersitie taken betwixt error which is matter in deede, & error which is matter of record. For if the partie one time sue one Scire facias, he shal neuer assigne error in deed after, for if after a Scire facias awarded, one wil assigne Error, for to auoide one outlawry, to say, that he was in warre in Fraunce vnder such a captaine, he shal not haue such assignement for it is error in deede, and not parcell of the record. And loke if one after the Scire facias may assigne error, for to reuerse one vtlawrie, to say that he was not but fower times called, and pray a certification. Quære, if he shal haue or not, for co certifie the Exygent &c. H. 22. E. 3.

In a Scire facias, out of a recognisãce against vj. the shirifes returned ỹ three are dead, and these other three come by warning and alledged the death of the other, and that their heires are within age, and demaunde iudgement, if during their nonage, they shalbe put to aunswere: vpon which was awarded, that the plee shal tary. And now the plee was a writ of error, and assigned Error for that ỹ by the recognisance al vj. were charged and euery one of the whole, for the which when these three did come, execution against them ought to haue bene awarded. Another error

was

was, for that, that they alledged ỹ the heires of the other three were within age &c. which plee lieth not in their mouthes, for that, that they are straungers &c. And for the first Error was said, that the charge falleth equally vpon al these tenants in common, & not vpon one, for notwithstanding that the landes of the one were lyuered &c. he shalbe ayded vpon his suggestion &c. And to the second Error was sayed, that a straunger may alledge the nonage of another, and proces shall not be made against him, in whom nonage is alledged, if it bee not trauersed, and all was affirmed by iudgement &c. T. 29. E. 3. M. 9. H. 5.

If a writ of Trespas be brought against many, & some appeare and plede not giltye, which are found giltie, & against these other proces is sued. Quære, if these other that are founde giltie shalbe receiued to alledge Error in the proces made against ỹ other which are seuered in proces M. 9. H. 5.

The executors of one man brought a writ of Error of outlawrye pronounced against the testator in his life, and for diuers errors ỹ outlawry was reuersed at their suit, & they restored to the goods of their testator. P. 11. H. 4.

¶ A writ of Dedimus potestatem de attornato faciendo.

REx balliuis suis de hund' de S. salutem, quia per commune consilium regni nri Angl' prouisū est, quod quilibet liber homo possit facere atturnatum

ſuum ad loquelas proſequend' & defend' motas in
com̃, trithingis, hund', wapentagijs & alijs cur̃ ſine
breue noſtro, vobis præcipimus quod attorñ quem
A. per literas ſuas patentes loco ſuo attorñ voluerit
ad loquelas ſuas proſequendū, motas coram vobis
in hundredo nr̃o præd', loco ipſi⁹ A. ſine difficultate
ad hoc recipiatis hac vice de gratia ſpeciali Teſte &c

This writ of Dedimus poteſtatem de attornato faciendo, lieth where a man is pleading in ỹ court of the king, and may not trauayle nor attende his plee, for ſickneſs, or other buſineſſe which he hath to do, then he may haue the ſaid writ directed to the Shirife, or to an Abbot, or to a Prior, or to a Knight &c. to recorde his attourney. And it ſhalbe commaunded in the ſaid writ, that he (to whom the writ is directed) retourne the ſaid writt vnder his ſeale, and the name of his atturney which is receyued, that he may be knowne in the kinges court, as it appeareth by a certaine ſtatute. De liberatibus perquirendis in fine. And know ye, that in euery plee of lande, & plee perſonal: aſwel the tenãt as the demãdant, may make their atturney as the defendant or the plaintife, & that before Iuſtices, which haue power to receiue attorney without writte, if the plee be before them in the Chauncery, or otherwiſe he that ſhall haue attorney, may ſue to the kings court, & purchaſe this writ of Dedimus poteſtatem, as before is ſaid. And knowe ye, that euery free man may make his attorney aſwel to make ſuit in countie, hundred, or in court baron as he may purſue or defend, & ỹ wil the ſtatut of

Merton

Wert c.x. And alſo when a free mã hath noted & ordained his attorney in any maner (as afore is ſaid) yet he may if he will, the ſame attorney remoue & make a new. And knowe ye that no man may make attorney in appeale as it appeareth by the ſtatute of Glouceſter. Cap. 8. An 44.

Knowe ye that in appeale of Robbery, the defendant pleded not guilty, and was founde guilty, and after verdict he ſaid that hee was a clerke, and the plaintife ſayd that he was Bigamus. And for as much as the proces ſhal be made to the Biſhop to certifie he was not appealed vpon the principal. In this caſe the plaintife was receyued to make attourney. P. 17. E 3. lib. aſſ.

In appeale, the defendant was acquited, the abbettors were inquired of, and A & B. were founde abbettors, by which the defendant praied a diſtreſſe againſt them, and had it. And praied alſo that he myght make attorney againſt the abbettors, and ſo did. P. 8. E. 4.

If the appellee be acquited by enqueſt, & the Juſtices haue enquired of the Abbettours, which are founde: & there is certaine matter within the recorde that the Juſtices wil bee aduiſed of the iudgmẽt, the appellee ſhalbe receiued to make an attorney. M. 21. H. 6.

Knowe ye that a woman may be attorney for her huſband by bill. P. 13 E. 3.

An infant may not be attorney, ne make attorney. T. 1. H. 5.

Knowe ye, that three thinges belongeth to the

the making of an attorney, one is that the attorney wil agree to be attorney for the party. And another, that the partie will haue him for his attorney. And the third that the Iustices wil record his name. And none of thē may be without the other. M. 7. H. 4.

Know ye, that it was said in a writ of error, brought of a false iudgement geuen in the county &c. that in euery case where the partie is for to excuse him against the king of a contempt, he ought to be in proper persō and not by attorney. M. 22. E. 4.

And know ye, that it is was said in a writ of erroz brought vpon a false iudgment geuē in C. that in euery case where the party is to aunswere to the king, for to excuse him of a contēpt, he ought to come in his persō, & not by attorney, for it was said, ỹ where a prohibition was awarded out of the cōmon place to ỹ archdeacō of C. for that, ỹ by the surmise of the party, he shewed how an action of that same thing was hanging in the cōmon bāke, & vpon that one attachment & a distres went forth &c. to aunswere to the contempt, & the archdeacon was chased at the day of the distres retorned, for to come in proper person, for excusing of him selfe in that he did not surcesse, and may not be by attorney.

One which commeth in vpon an Exigent before plee pleded, would haue made attorney & might not. Contrary law is, when he commeth in by supersedeas.

One attorney may plede misnaming of his maister, which standeth with his warranty.

As

As if the warranty be, I. S. ponit loco suo &c. He may say that he is made knight.

¶ Protectio cum clausula volumus.

REx oībus balliuis & fidelibus suis ad quos præsentes literæ puenerint salutē: Sciatis q̄ suscepim⁹ in protectiōn & defensionem nr̄am dilectū & fidelem I A. qui in obsequiū nr̄m & p̄ceptū nr̄ū profectur est ad p̄tes Scociæ, ōnes r̄as, redditus, & oēs possess. suas. Et ideo vobis mandam⁹ q̄ ipsū Io. r̄as, redditus & oēs possess. suas manuteneatis, protegatis & defendat, nō inferentes ei vel inferri p̄mittentes iniuriam, molestiā, dāpnū aut grauamen. Et si quis eis faciat, sine dilatione faciatis emēdari. In cuius rei testimoñ has literas nr̄as fieri fecimus patentes vsq; ad festū sācti Mich. px. futur duratur. Volum⁹ etiā q̄ idem I. A. interim sit quietus de oībus plītis & q̄relis, exceptis plītis de dote, vnd nihil habet &c. Quare imp̄, & Ass. no. diff. vltimæ p̄sentationis, & attincē: et exceptis loquelis, quas coram iustic' nostris itinerantibus in itineribus suis sūmoniri contigerint, presenē minime valitur, si contingat ipsum I. A. iter illud non arepere vel postquam citra terminū illū, in Anglia redierit a partibus S. &c.

¶ Protectio cum clausula volumus, lieth in case where a mā passeth ouer þ sea in the kings seruice vnder any Lord, & if he will haue the said protection he ought to haue the seale of his lord (with whom he went) or a bil directed to þ gardein of the priuy seal for one such þ will go w̄ him in the kings seruice, & when he hath a priuy seal he may haue his protectiō graūted of þ Chācellor. And know ye þ euery mā which hath þ protectiō (Cū clausula volumus) shall be acquited of al maner of pleas, except

cept plees of dower, Vnde nihil habet, Quare impedit, Assisa de nouel disseisin, vltimę presentationis, and except plees which are summoned before Justices in Eire. But the protection shal not be allowed before any Judge, for taking of vittaile or buying for the voiage in ẏ seruice, wherof the Protection maketh mention. Ne other wayes in plees of trespas, or contracts made or had, after the date of the same Protection, as will the statute Añ 1. R. 2. cap. 8. which beginneth, Item assent &c. And know ye that in case that a man purchase this protection, for to delay any plee in disceit of the partie, or in any other maner, & he go not in the vyage, after the maner of his protection, the party demaundant or plaintife may haue one Cerciorare out of the Chauncery to the shirife (where such person dwelleth) for to certifie the King in the Chauncery thereof, whether he be gone or not, and thē if the shirife retorne that he is not gone in the vyage but dwelleth in such place attending to his proper busines, the party persuant may haue a patent (which is called Innotessimus) to all people for to adnul the said protection, or other close writ directed to the Maior, shirifs or bailifes commañding them, that if the said protection be shewed before them, or any of them, in delay or disturbance of the demaundant or plaintife, they shal take the said protection, & that send into the Chauncery for to be there cancelled, & adnulled. And in the same maner shal the demaundant or plaintife haue to the Justices of the common bank, or

other

other Justices that they shal surcesse to allow such Protections. And that they shall send the Protection into the Chauncerye as afore is sayd. And when any such protection is shewed before the Justices for to delay the party (as afore is sayd) thē by the statute de Protectionibus allocandis, made in the time of king Edward sonne to king Henry, the 33. yere of his raigne, is ordained certaine manner of proces, as appeareth in the said statute.

Know ye that a Protection, q̄a profecturus shal not be allowed in any plee commenced afore the date of that, if it be not in the vyage where the king goeth himselfe or other viages royal or in messages of the king for busines of the Realme. An̄ 13. R. 2. ca. 16. And where a protection shalbe allowed in viage roial, hereafter appeareth.

In a Scire facias, to haue execution of a fine the tenant sheweth a Protection, Quia profectur in comitiua, with the protector of ẏ realme & was allowed, and if he go by commaundement of the king in message &c. it shalbe allowed H. 3. H. 6..

In a Præcipe quod reddat, a protection was shewed for one, which went with the Erle of H. into Gascoine, and was challenged for that, that it was not viage roiall, & the commission of the Earle was shewed forthe, which wil that the king made him his lyeutenant, and gaue him power to pardon felony and treason, & to enquire of those which made resistance against him, and to make

coyne

coyne &c. And for that, that he hath power to enquire by spetial grant, ẏ protectiō was allowed. P.7.H.6.

In det the parties demurred in iudgment: and the opinion of the court with the pleintife, and the defendant praied that the iudgment might be respited vnto such a day, and it was sayd by the court, that if hee sued a protection in the meane time that it shall not be allowed E.4.H.7.

A protection was laide before (quia profecturus est) in the company of T. the kings sōne into Irelande, and it was purchased hanging the writ, whereof it was not allowed, for that, that it may not be sayd vyage royal, without he bring the kings host into Irelād M.11.H.4.

But knowe ye, that after Moyle, that a Protection of vyage royal into Ireland, shal not be allowed. For they are within the iurisdiction of the realme. Otherwaies it is of Scotland, Therefore inquire what the law is. But after Littleton a protection (Quia moratur super saluam custod') shal be allowed. The same law shalbe, Quia morat̄ in ptibus VValliæ, but the booke is not adiudged. H.7.E.4.

In a Formdon, a protection shal not be allowed. for the Gardeins of prisoners, which haue suffred men that be cōdempned, to go at large. Añ 7.H.4.cap.4.

A Protection shal not be allowed in a scire facias, vpon a trauers of office taken before the Eschetor, or commissioners against any patent. Añ 33.H.6.cap.17.

Know

Knowe ye, that an infant, a woman couert may sue a protection. H. 12. E. 3.

Knowe, that it is said that if xx. of a cominalty are by protection, & in the seruice of the king, the protection shall not be allowed but for them only. For if xx. of the cominalty be in seruice of ỹ king, notwithstãding that there be Maior & cominalty, yet the cominaltie abideth at home. H. 13. E. 3.

Knowe ye, that when the defendant, which went to imparle, was demaunded to come with his aunswere, a protection was put before, quia profecturus est, which was of elder date then was the imparlance, & that notwithstanding it was allowed. Otherwayes it should be if the protection had ben, Quia moratur in obsequio. H. 36. E. 3.

Knowe ye that if there be more in the protection, then in the writ, the protection shal be allowed, but if there be lesse in ỹ protectiõ, thẽ in the writ, it is not allowable. H. 8. E. 3.

In appeale of Maime, a protection was sued for the defendant, & notwithstanding that the pleintife recouered nothing but damages, in this suit the protection was disallowed T. 19. E. 3.

¶ Protectio cum clausula nolumus.

REx omnibus balliuis &c. vt supra, salutem. Sciatis quod suscepimus in protecc' nostram dilectũ nobis in Christo Priorem de N. omnes ẽras, res, redditus & omnes possessiones suas. Et ideo vobis mãdamus q̃ ipsum Priorẽ, terras, res, redditus & ões possess. suas manuteneatis, protegat & defendat

non

non inferentes eis vel inferri permittentes iniuriam aut grauamen, & si quod eis forisfactum fuerit, id eis sine dilatione faciatis emendari. Nolumus enim, quod de bladis, fenis, carectis, carragijs, bob⁹, vaccis, vel porcis, ouibus aut alijs animalibus, victualibus siue ceteris bonis et catallis ipsius Prioris conⁱ voluntatem suam ad opus nostrum aut aliorum per balliuos seu ministros aut alterius cuiuscunque quicquam capiaⁿ, teste &c.

This writ of Protection (Cum clausula nolumus) lieth in case where a mā is in doubt that the ministers of ỹ king, or of any other, will take his corne, haye, horse, cart or such like. And know ye that this protection may be graunted by euery maister of ỹ Chaunce-ry without prinie seale.

¶A writ of right De aduocatione ecclesiæ.

REx A. salutem. Precipimus tibi quod plenum rectum teneas VV. de L. de aduocatione ecclesie de N. quam clamat pertinere ad liberum tenementum suum, quod de te tenet in L. per liberum seruicium vnius denarij per annum pro omni seruicio, quam I. de VV. ei deforc' vt dicit. Et nisi feceris vicecomes &c. ne amplius &c. recti. Teste &c.

¶Another writ that lyeth in the common banke.

REx vic' N. saluⁿ, precipe A. quod iuste &c. reddat D. aduoc' ecclesiæ de N quam ei iniuste deforc' vt dic'. Et nisi prædictⁿ D. fec' te. &c. tunc sum &c. prædictⁿ A. quod sit coram Iustic' nostris apud VV. vt supra.

This

THis writt of De aduocatione ecclesiæ lyeth where a man hath right of Aduowson, & the parson of the church dieth, and a stranger do the present his clerk to that church, and he which hath right, hath not moued his action of Quare impedit, nor darrein Presentmēt within the vj. moneths, but doth suffer the stranger to vsurp vpon him, then he shal not haue any other writ then a writ of right of Aduowson. And this writ he shall not haue if he clayme not the aduowson to him and to his heirs in fee. And also he may haue a writ of right of aduowson of the halfe, & the third part, or the fowerth part aswel of the whole (if he be forced.)

And know ye, that a writ of Right, Quod reddat aduocationem decimarum, is not graunted by the statute of Westminst. ij. chap. 5. which beginneth, Cum de aduocatione ecclesiarū &c. which will that if the Parson of any church by a writ of Indicauit bee disturbed to demaund his dismes, his Patron shall haue a writ of right of Aduowson to demand the same dismes. But the writ of Indicauit lyeth of no lesse parcel, then of the fowerth part of the church, therefore no more doth this writ, but yet after some men the writ lieth of lesse parcel at the cōmon law. And the proces in this writ is, Summons, Graund Cape & petite Cape after apparance. And the proces against the Iurie is the common proces, Venire facias, Habeas corpora & Distring. And know ye, if a man hold of the King a Manor by graunde Serieantie or by petit Serieantie, vnto the

which manor an Aduowson is belonging, and hee doth sell or graunt the Aduowson in dismembrance of the seignorie, the king shall present to the first auoydance after &c.

Know ye, that in a Writt of right of Aduowson brought by the kinge, the defendant shall not proferre the halfe marke, ne iudgement finall shall bee geuen against the king.

And know yee, that in a Writte of right of Aduowson the tenant doth ioyn the mise, and day is geuen to him vnto the feast of the Purification of our blessed Ladie: at which day hee commeth not, but commeth at the third day after. Judgement finall was geeuen vpon the default. P. 2. E. 3.

But if the Tenant in a Writte of right of Aduowson do knowledge the right of the demaundant, Judgement shall bee geuen, that hee shall recouer the Aduowson: And Judgement finall shall not bee geuen, for that that the mise was not ioyned. Mich. 33. Ed. 3.

A release of the plaintife him selfe, or of an other auncestor, by whom the discent is not made, is a good barre without ioyninge the mise, And iudgement final shalbe geuen. M. 17. E. 3.

A writ de Assisa vltimæ præsentationis.

REx vicecomiti Midd' salutem. Si A fec' te securum &c. tunc sum &c. duodecim liberos & legal' homines de vicineto de B. quòd sint coram Iustic' &c. parat' sacramento recognoscere q̃s aduocat' tempore pacis

pacis præſentauit vltimam parſonam quę mortua eſt ad eccleſiam de C.(vel vltimum vicarium q̄ mortuus eſt ad vicariam de N.)quæ vacat(vt dicit) & cuius aduocationem idem A dicit ad ſe pertinere,& interim eccleſiam illam videant,& nomina eorum imbreuiari facias,& ſum̄ B.qui aduocationem illam ei deforc',q̄ tunc ſit ibi ad audiend' illam recognionem,& habeas ibi ſum̄,& hoc breue. Teſte &c.

This writ of Aſsiſa vltimæ præſentationis lyeth where I or mine auncestor hath preſented our clarke to a Church, & after our clerk dieth, ſo that the church is void, and a ſtranger with preſent his clerke to the ſame church, & with diſturbe mæ: then I ſhal haue this writ, or a Quare impedit at my pleaſure: But the Aſsiſe is more better. For in Aſsiſe I claime of my proper poſſeſſion, or of the poſſeſſion of myne Auncestor, But in the Quare impedit aſwell the diſtourbor as I, claime the poſſeſſion and right. And know ye, that where a man may haue aſsiſe of darrein preſentment, he may haue a Quare impedit, but not the contrary. And the proces is, Summons, & Reſummons againſt ỳ party, & againſt the Iurors, Sūmons, Habeas corpora et Diſtr̄ &c. And know ye, that in Aſsiſe of darreine Preſentment & Quare impedit, a man ſhall recouer dammages, if vj. monethes be paſt before his recouerie, hee ſhall recouer the value of the church by two yeares. And if the recouerie be before the vj. monethes be paſt, then hee ſhall recouer dammages, that is to ſaie, the halfe of the Church for one yeare: And that will the ſtatute of Weſtm. ij.

chap. 5. which beginneth, Cum de aduocatione ecclesiarum: and in the said estatute are ordeyned three writts originalls of aduowson of churches, that is to say, a writ of right of aduowson, which shall be determined by battail or graund Assise. A writ of Darreine præsentment, and Quare impedit, which are of the possession. And if any man which hath no right to the aduowsō to present his clerk in ỹ tyme ỹ the Aduowson was to any gardeyne by reason of anie infant, or in tyme of tenant in dower or by the curtesie, for terme of life, for yeares or in taile, yet the Statute will that when the church falleth voyde, and they in the reuersion after the death of the said tenants or gardeyne be distourbed, they shall haue their recouerie by Assise of darreine presentment, or quare impedit. But they in the reuersion shal not be ayded by the aforesaid writs, if the said aduowson be recouered against the foresaid tenants & gardein, by iudgement or inquisition, notwithstanding that the said tenāts & gardein haue faintly defended their plee, but the iudgment shall stand in his force, vntil such time that it be adnulled by the iudgement in the kings court by Error, Attaint or by Certification, as the statute wil &c. Know ye, that in these cases, a man shall haue assise of darrein presentment though that he nor his auncestors had not the last presentment. As if I present, & after ỹ church falleth void, & the bishop with present by laps as Ordinary, I shall haue this writ: & if my gardein present, I shall haue

haue an aſſiſe of darrein Preſentment. P. 20.E.3.M.6.E.2

Know yee, that if the Preſentee do reſigne, yet the writ ſhall ſay, qui mortuus eſt. T.18.E.3.

Know yee, that the plaintife made this title, that he himſelfe was ſeyſed and preſented &c. and the writ was, Et ſummoneas B. qui aduocationem illam ei deforceat. And the writ was challenged and not allowed for that, that it is the forme of the Chauncerie. M.2.E.3.

A writ of Quare impedit.

REx vicecomiti Midd' ſalutem. Præcipe A & B. quod iuſtè &c. permittant C. præſentare idoneam perſonam ad eccleſiam de N. quæ vacatur et ad ſuam ſpectat donationē, vt dicit. & vnde queritur quod præd' A & B eum iniuſtè impediunt, & niſi fecerint &c. & tunc ſum' &c. præd' A & B quod ſint coram Iuſticiar' &c. tali die oſtenſ. quare non fecerint &c. Et habeas ibi ſum', & hoc breue. Teſte &c.

THis writ of Quare impedit lyeth where a man hath purchaſed a manor, to the which manor an aduowſon is belonging: the parſon dieth, a ſtranger with preſent his clark, then he ſhall haue the ſaid writ, and not aſſiſe of darren preſentmēt. And the proces is in this writ as in aſſiſe of darrein Preſentment, as is conteyned in the ſtatute of Marlb. cap. xij, Sommons, Attachement and one Diſtreſſe, and if the partie defendant come not at the Diſtreſſe, then the plaintif ſhal haue a writing to the Biſhop of the place, that he may

accept his clerk to the ſaid church, ſaning to the defendant another time his right (if thereof he ſhall complaine.) And know yee, that in aſſiſe of darrein Preſentment, & in a writ of Quare impedit dayes ſhall be geuen from xv to xv. and from iij. weekes vnto three weeks, as the place is diſtant. And that wil the ſtatute aforeſaid.

Know ye, that if a Quare impedit be brought againſt the biſhop & a ſtranger, and the Biſhop diſclaimeth ſaue onely as Ordinarye, and the other ſayeth that he is parſon imparſonee of collation of the biſhop: In this caſe the writ ſhall be awarded to the Metropolytan and to the biſhop. H. 19. E. 3.

Know ye, that a Quare impedit was brought againſt a Prior as patron, & one A as Incūbent, & hanging the writ, the Patron dyed, yet the writ was maintenable againſt the Incumbent alone. H. 9. H. 6.

A writ of Ne admittas.

REx &c. venerabili in Chriſto patri eadem gratia L. Epiſcopo, ſalutem. Prohibemus vobis ne admittas parſonam ad eccleſiam de N. quæ vacat, vt dicitur, & de cuius aduocatione contentio mota eſt in Curia noſtra inter A & B, donec diſcuſſum fuerit in eadem curia ad quem eorum pertineat eiuſdem eccleſiæ aduocatio. Teſte &c.

THis writ of Ne admittas lyeth, where one man impleadeth another by a Quare impedit, or by aſſiſe of darreine Preſentment in the kings Court. Then if the plaintife ſuppoſe that the biſhop will preſent the clerk of the de-

defendant hanging the plee betwixt them of the said church, hee may haue the sayd writte directed to the Bishop, prohibiting him that hee present no clerke to the said Church before that it be discussed betwyxt them, who hath right to the said church to present. But if they bee in plee, and the presentation not discussed, nor no recouerie within ỳ sixe monethes, then the Bishoppe shall present by Laps: if the plaintife recouer, he shall recouer dammages, as is conteyned in the statute of westm. ij. chap. v. And the proces is one Prohibition, & vpon the Prohibition, Attachment & a Distres. And know ye that if the defendant in a Quare impedit come not at the Distres, then the plaintife shall haue a writ to the bishope, that he shall accept hys clerk to the said church, sauing another time the right of the defendant &c. And this writ shall be Judiciall, and is such.

REx &c. venerabili, vt supra, salutem. Sciatis quód cum B. in curia nostra &c. recuperauit præsentationem suam versus C. ad ecclesiam de N. quæ vacat per defalt̃ ipsius C. Et ideo vobis mandamus quód non obstante reclamatione præd' C. ad præsentationem præd' B. ad ecclesiam idoneam parsonam admittatis. Teste &c.

A VVrit de Quare non admisit.

REx vicecomiti salutem. Si A fecerit te securum de clamore &c. tunc sum' &c. B. Lincoln̄ episcopum quòd sit coram Iustic' &c. ostensurus quare

cùm idem A. in Curia noſtra coram præf. Iuſticiar noſtris recuperaſſet verſus C. præſentationem ſuam ad eccleſiam de I. per recogñ Aſiſiæ vltimæ præſentationis ibi inter eos captam, propter quod mandauimus eidem epiſcopo, quod non obſtante reclamatione prędicti C. ad præſentationem ipſius A. ad eccleſiam præd̄ idoneam parſonam admitteret: idē epiſcopus vv. clericum præd̄ A. per ipſum preſentat̄ ad eccleſiam præd', admittere recuſauit, in noſtri ac mandatorum noſtrorum contemptum, & conſidet Curiæ noſtræ præd̄ leſionem manifeſtam: & habeas ibi ſum̄, & hoc breue. Teſte &c.

This writ lyeth where a man hath recouered one aduowſon of a church, & hee with ſend his able clerke to the biſhop for to bee preſented to the ſaid church, and the biſhoppe will not receiue him, then he which hath recouered ſhall haue the ſaid writt. And this writ is a writ of contempt and all times is iudicial, & goeth out of the rolles of the Iuſtices: but in time of vacation when ꝑ Court ſitteth not, then it ſhall be made in the Chācerie. And the proces is Attachment and Diſtres. And a Quare non admiſit pro rege hath bene made and inſealed by ſome men without making mention of any recouery before made. And yet it is by the Prerogatiue of the kinge.

Know ye, that this writ ſhall be brought in the countie where the refuſal was made, for that, that he ſhal recouer nothing but damages, and not the preſentment, other wiſe the writ ſhall abate: but a Quare impedit ſhall be brought in the countie where the churche

is

is: for that that he shall recouer the presentment, and that is the diuersitie. And if the bishop admit him & make letters to the archdeacon to induct him, the bishop is excused though that the archdeacon refused to induct him. And he is put to sue against the archdeacon in the court Christian, for that is a thing spirituall. And it is a good plee for the bishop to say that he him admitted, and made letters to the archdeacon for to induct him without saying that he him inducted. In. 38. H. 6.

And if the writ, to admit his clerke, be directed to the vicar generall and he refuse, yet the Quare non admisit shalbe brought against the Bishop. My. 13. E. 3.

The Bishop refused to receiue a clarke and died, by which one prated a writ against the archebishop of Caunterburie gardeine of the spiritualties, and to him was denied. But a writ was graunted to him against the garden of the spiritualties, but not against the archbishop, for that, that the first writ was not directed to him. My. 15. E. 3.

A writ of Quare incumbrauit.

REx vic' A. salutem. Si A. fecerit te secur &c. tunc sum &c. B. Lincoln episcopum, quod sit coram iustic' &c. ostensurus quare cum idem A. in curia nostra coram præfatis Iustic' nostris recuperasset præsentationem suam ad ecclesiam de I. per assisam vel recognitionem vltimę præsentationis interim inter eos capt, idem tñ episcopus pendente placito in præfata curia nostra coram Iustic' nostris

super

ſuper captionem vltimę preſentationis prædictæ, eccleſiam prædictam incumbrauit in ipſius A. præiudicium non modicum & grauamen & contra legem & conſuetudinem regni noſtri. Et habeas, &c. Teſte &c.

This writ lyeth where there is two pleading for the aduowſon of a church, & hanging the plee ỹ Biſhop preſenteth one of his clerkes within the vi. monethes to the ſaide church, then he that hath recouered ſhal haue this writ againſt the biſhop. And know ye, that this writ lieth not but hãging the plee. for if it be out of the plee, & I ſend my clerke to the biſhop for to be of him accepted, and he him refuſe, and preſent one of his owne clerks, then I ſhal haue a Quare impedit, or darreine preſentment as my caſe lyeth, & not the Quare incumbrauit. And the proces is Somons, attachement and diſtreſſe. And know yee that when a Quare impedit, or aſſiſe of darreine preſentment is brought againſt the biſhop as diſturber of aduowſon of a church, ỹ biſhop may not preſent becauſe of Laps after the terme of vi. moneths vntil the plee be determined betwixt him & the pleintife.

Know yee, that after the ſaying of Stoner that a Quare impedit lyeth not, but where a Non admittas is directed to the biſhop hanging the writ. M. 31. E. 3. M. 18. E. 3.

And note that this writ ſhalbee brought alwaies in the common banke, for that, that it is a common plee. In a Quare incumbrauit it is no plee to ſaie, that there is no ſuch record here, nor it is no plee to ſaie, that the record

coꝛd is ſued in the kings bench and erroꝛ aſ=ſigned M.17.E.3.

Knoꝛw ye, that a Quare incumbrauit ſhalbe a=warded againſt the biſhop where he incum=beth within the time of vi. monethes not=withſtanding that no action was purchaſed beſoꝛe. T.21.E.3.

A writ of prohibition.

REx archiepiſcopo Cantuar, et eius commiſſ. ſa=lutem. Prohibemus vobis ne teneatis placitum in curia Chriſtianitatis de catallis vel debitis vnde A. queritur quod E. trahit eum in placitum in cur Chriſtianitatis coꝝ vobis niſi catalla vel debita ſint de matrimonio vel de teſtamento, quia placita de ca=tallis & debitis quæ non ſunt de teſtamento vel de matrimonio ſpectant ad coronam & dignitatẽ no=ſtam. teſte &c. Eodem modo fiat alia prohibic' parti ne ſequatur, mutatis mutandis.

REx &c. venerabili in chriſto &c. vel eius offic' ac eorum commiſſar ſalutem, prohibemus, vt ſu=pra, de aduoc. eccleſ. de N. vel medietat vel tertiæ partis, & vnde G. & E. vxor eius queꝝ quod T. e=piſcopus de L. trahit eos in plita coram vobis in cu=ria chriſtianitatis quia placita de aduoc. eccleſiarum ſpectant ad coronam &c.

THis writ lieth where a man is impleded in court Chriſtian of things, which tou=cheth no maner of matrimonie, noꝛ teſta=ment, But ſuch things, which toucheth the croẅne of our ſoueraigne Loꝛd the king, as Dette, Treſpas, oꝛ of any ſuch like which ſhall bee pleaded in the kings court, then he may haue the ſaide ẅzit directed to the oꝛdina=

ordinaries, & officers, or commissioners of the said court Christian, them commaunding to cease their plee. And also know ye that he may haue aswell a prohibition to the shirife, that the partie shal not pursue, and to the officials, or commissaries. And the proces is in this writ, the prohibition. And if the partie sue before the plee in court Christian, notwithstanding the prohibition, then shall go out of the Chauncerie one attachemẽt. And this attchement is returnable, if he cease not, then shall go the distresse.

Note out of what court a man shall haue a prohibition, and attachement vpon a prohibition. In a writ of Trespas brought in the common place, the parties being at issue, and hanging that, the pleintife sueth in court Christian, the defendant shall haue a prohibition out of the same place. An. 13. H. 6.

In a Quare impedit brought by the king against the parson of C. for that that he him disturbed to present to the vicarage of ꝑ same church, and before that writ was returned the parson hath sued a citatiõ against the presentee of the king: and he prayed prohibition: And to him it was graunted by the Justices of the common place. T. 2. E. 4.

If a man make an othe to enfeoffe mee of his land: If I sue him in court Christian Pro lesione fidei: he shall haue a prohibition against the partie and the Iudges also. And if a man and his wife do sell land (which is of the right of the wife) & the wife is sworn that shee shal not sue no Cui in vita. And after the

the death of her husband, shee bringeth her Cui in vita, and the other sueth her in court Christian, Pro lesione fidei, shee shall haue a prohibition. T. 11. H. 4.

Know ye, that if a man be sued in court Christian, of couenant broken without especialtie, or executors are sued for a simple contract made by their testator. A prohibition shalbe awarded, and yet the plaintife hath no remedie by the common law. M. 22. E. 4.

Know ye, if the bailife in court baron hold plee aboue xl. s. the defendãt may haue a prohibition: if one sweare vpon a booke, to payo certeine money, at a certaine day, & at the day he paieth not the money, and the other sueth him in court Christian, Pro lesione fidei, he shall haue a prohibition &c. H. 16. H. 6.

A writ of Indicauit.

Rex Iudici tali, & eius offic', vel eius commissario salutem, Indicauit nobis A. q̃ cũ B. teneat ecclesiam de C. de aduocatione sua, VV. clericus clamans quartam partem eiusdem ecclesiæ de aduoc' E R. trahit eum inde in placitum coram vobis in cur' Christianitatis: quia vero manifestũ est quod prædict' A. iacturam sue aduocationis incurret si prædictus VV. in placito illo causam illam optineret, vobis prohibemus ne placitum illud teneatis in cur' Christianitatis donec discussum fuerit in cur' nostra ad quẽ illorũ pertineat eiusdẽ ecclesiæ, vel capell' aduocatus, quia placita de aduocatione ecclesiarũ spectant ad coronã & dignitatem nostram, teste, &c.

This writ lyeth where a debate is betwixt two clarks in court Christian: of a church

or

or of part of a church, or for dismes, which amounteth at ꝑ least to the value of ꝑ fourth part of a Church, or to a greater part as the second part, or third part, then for that, that the patron of the clerke defendant shall loose his aduowson (if the clerke of the pleintife recouer in court Christian) and the pleint of the aduowson of the dismes, which amounteth at the least to the fourth part of the value of the church, belõgeth to the court of the king, and may not be gained ne lost in court Christian: for that cause the patron of the clerke defendant shall haue in the Chaũcerie the said writ of Indicauit, directed to the clerke of the pleintife, or to the officers of the court Christian, commaunding them to cease their plee and pursute vntill that it bee discussed in the kings court, to whome the aduowson belongeth. And know ye, that the Statute of Westminster 2. Cap. 5. which beginneth Cum de aduocationibus ecclesiarum &c. in the end of the said statute is recited, that if the patron of the clerke plaintife be in such manner disturbed, he shall haue a writ of right de Aduocatione decimarum. And when the aduowson is discussed in ꝑ kings court, then the plee shal proceede in the court Christian. And the proces is as in a prohibition: for it is a prohibition in it selfe. And know ye that a writ of Indicauit, shalbe betwixt four persons, two shall be patrons, and two shall be clerkes: whereof the one clarke claimeth to hold the church, or part of the church of the aduowson of one patron, and the other clerke

clerke, of the aduowſon of the other patron, & if the diſmes of the aduowſon be demaunded in court Chriſtian, and the diſmes be not to the value of the fourth part of the church, then the prohibition ſhall haue no place. And know that this writ is not returnable, but if they ceaſe not in their purſuit, he ſhal haue one attachement, and after the attachement returned, the diſtreſſe ſhal go out of ỹ rolles of the Juſtices.

Know ye, that if an Abbot be parſon inperſonee of the church of Dale, & he demandeth the fourth part of the diſmes againſt one A. parſon of the ſame church which is in of the preſentment of a ſtranger. In this caſe the parſon of his patron ſhall haue the Indicauit. And yet they are but three parſons in all. And if a man hath iudgement to recouer diſmes amounting to the valure of ỹ fourth part, and ſentence diffinitiue is giuen, & the defendant appealeth to the biſhops court by the which the Biſhop doth ſend a delegacie to certeine perſons, and they make ſubdelegacie: In this caſe the partie ſhall haue ỹ Indicauit to the iudges ſubdelegacy. M. 12. E 4

Know ye, that before the Libell be put in, in court Chriſtian, he ſhall not haue the Indicauit, and it behoueth to him that will haue the Indicauit to ſhewe the Libel to the Chauncellor. Pa. 31. H. 6.

A writ of Conſultation.

REx iudici tali ſalutem. Ex parte V V. de H. perſonę Eccleſiæ de S, nobis eſt oſtenſum quod cũ ipſe

nuper

nuper petierit coram vobis in curia christianitatis versus I. de C. & C. de I. executores testam' B. defunct' secundum melius auer', quod fuit eiusdem B. nuper parochiani dict' eccles'ie defunct' nomine mortuar', dict'æ eccles'iæ debit', ac præfat' execut' proces'sum placiti prædict' coram vobis inchoati fraudulenter machinantes impedire asserentes quod placitū illud in curia Christianitatis de catallis & debitis, quæ non sunt de testamento vel matrimonio quādam prohibitionem nostram ne placitum vobis dirigi procur', cuius prohibitionis prætextu in causa illa hucusque procedet' distuliſtis, & adhuc defertis in ipsius VV. & eccles'iæ prædict' graue præiudicium, & inundacionis periculum manifestum, & quia in articulis, præfatis prælat' & cleric' nostris per nos nuper conces'sis, plenius continetur quod in decimis, oblationibus, mortuariis, quando sub iſtis nominibus proponuntur prohibitione nostræ non est locus: vobis significamus, quod in causa prædicta si vero de mortuar' agat' (vt prædict' est) tunc non obstant' prohibitione nostra vlterius facere poteritis, quod secundum formam eccles'iasticam fore videritis faciend', teste, &c.

And this writ lyeth in case where a man is impleaded in court Christian, of things which toucheth testament, or matrimonie, & the defendant doth purchase a prohibition in the Chauncerie, directed to the ordinaries, commaunding them to cease of their plee and pursuit, by force of which prohibitiō, the plee is extinguished, then the plaintife shall come into the Chauncerie, shewing the copie of their plee conteined in his bill to the Chauncellor, and then he shall haue the said writ

directed

directed to the ordinarie before said, commā-ding them to pursue forth in the plee, notwithstanding the prohibition before to them directed. And know ye, that a Consultation lyeth euer for the plaintife, that first moueth the plee in Court Christian.

¶A writ of Vi laica remouenda.

REx Vicec' salutem, Præcipimus tibi, quód vim laicam & armatam quód B. tenet in prebenda A de C. in ecclesia de C. ad pacem nostram perturbandam sine dilatione amoueas ab eadē, & si quos tibi resistentes inueneris, tunc assumpt' tecum sufficiposse Comtui si necesse fuerit, eos per corpora sua attach. & in prisona nostra saluo custod', ita qđ habeas coram nobis &c. vbicunqué &c. ad respondendum nobis de contemptu, & resistantia supradictis. Et habeas ibi hoc breue. Teste &c.

THis writ lyeth where debate is betwixt two persons for a Church, & the one doth enter into the Church with great power of lay men, and doth holde the other out wyth force, then he that is holden out shall haue a writ directed to the Shirife, that he remoue the great power of lay men which is within the Church, and it shalbe commaunded to the Shirife, that if he finde any men making resistance, that he shall take with hym the power and ayde of his Countie. And al they that did resist shalbe attached by their bodies and put them into prison, vntill they come before the king at a certain day to aunswere of the contempt. And this writ is returnable, and shall not be graunted before that the

Bysshop of such a place, or such a church hath certified in the Chauncerie by his writ of such resistance &c.

¶A writ of Excommunicato capiendo.

REx Vic' salutem, Significauit nobis R. venerabilis pater L. Episcopus, per literas suas patentes, quód R. propter manifestam contumatiam suam excommunicatus est, nec vult per censuram ecclesiasticam iustificari, quia verò potestas Regia sacrosanctæ ecclesiæ in querelis eius deesse non debet, Tibi præcipimus, qd' prædictum R. per corpus suum secundum consuetudinem Anglię iustic', donec sanctæ ecclesiæ tám de contemptu, quám ei iniuria illata ab eo fuerit satisfactum, Teste &c.

This writ lyeth where a man is excommenged by the Bishop, & if he will not be iustified by the Ordinarie. Then the Bishop shal send his letter patent to the Chauncelor rehersing the excommengemẽt. And then shalbee commaunded to the Shirife of the same Countie, to take the bodie of him that is cursed, and by his bodie he shalbe chastised vntill he submit him selfe to the order of the holy Church for the contempt & wrong by him done. And this writ is a Iusticies. And if the Shirife will not make execution of the said writ, then shal go out a Sicut alias & Pluries, and after attachment, as in a Replevyn. And know ye, that if he that is excommenged hath made agreement aswell for the wrongs as for the contempt made to holy church. Then the Bishop shal send his writ to the king, certifiyng by the same writ, that he

he hath made agreement with holy Church for the contempt. Then shalbe commaunded to the Shirife of the same countie by a writ De Excommunicato deliberando, that he shall deliuer that same man which is in such maner imprisoned &c.

Know ye, that a certificat made by these persons of any excommengemēt is to no valure. If the Byshop certify excommengemēt by his letters, it is nothing to the purpose. Añ 30. E. 3. Lib. Ass.

The same law is, if the cōmissary of ẏ Bishop certifie excommengement, but if it bee certified by the Archdeacon of Richmond, or by the Deane and Chapter of Caunterburie, in tyme of vacation it shalbe allowed. T. 7. E. 4.

But if the Deane of saint Martins, or Abbot of saint Aldons, or other like, which are persons exempt of euery Ordinaries iurisdiction, certifie excommengement, it is nothing to the purpose, nor of no value. Pa. 20 E. 3. M. 12. E. 4.

The same law is, if a Byshop certifie excommengement made by another Bishop H. 33. E. 3.

And if the Byshop be dead before that the letter of the certification be shewed, it is voide. Añ. 8. E. 2.

The Baylifes and Communaltie of C. brought a writ of Rescous &c. and shewed all the matter, as appeareth in the case &c. And the defendaunt said, that at the time of the writ purchased, one J. & W. were bailifes

and said that they were excommenged, and shewed the letter of the Byshop testifying the same, and for that, that the writ is taken by the Bailifes and Communaltie without naming any person by proper name, and the letter of the Bishop proueth not for what cause the plaintife nor any of them are excommenged &c. the defendant was awarded to aunswere ouer &c. Itiñ Kanc'. M.30.E.3.

In Trespas the defendant sayd that the plaintif shal not be aunswered for that, that he is excommenged, and shewed the letter of the Bishop of N. testifying the same which was read &c. Quære if he haue a letter of absolution, if this writ shall abate or no, it is said that it shall not abate. But the iudgement shalbee that the defendant shall go to God, & the plaintife shal not be amerced: but of vtlawrie otherwise is, as it is thought: for there the writ shall abate. A.7.R.2.

Assise brought by a Gardeine of an Hospitall, against the Archbishop of C. and W.P. and they alleaged that the plaintif is excommenged, & shewed a letter of the same Archbishop which proueth that he is excommenged at the instance of W.P. & for that, that W.P. and the Archbishop are parties to the Assise, they were charged to aunswere ouer. M.8.E.3.

¶ A writ of Excommunicato deliberando.

REx venerabili &c. Episcopo salutem. Ostensum est nobis ex parte VV. qd' cum ad denunciac' vestram ipsum per Vic' nostrum L. tanq; excommuni-

nunicatum clauos eccleſiæ contemnentem, præcipimus iuſtic', Et idem in ſub cauſione idoneum abſolutionis beneficium I. petierit vos ipſum contra iuſticiam ad hoc admittere recuſatis. Et ideo vobis mandamus, quód ipſum VV. cum cautione huiuſmodi abſoluatis, alioquin quod noſtri eſt in hac parte exequemur &c.

¶ Aliter.

REx Vicecom ſalutem, cum A. de H. quem ad denunciatiõ Epiſcopi venerabilis &c. tanquã excommunicatum per corpus ſuum, ſecñdum conſuetudinem Angliæ per te iuſtificari præcipimus, donec ſanctæ Eccleſiæ, tàm de contemptu, quám de iniuria ei illata ab eo eſſet ſatisfact, & iam ab Epiſcop ipſo abſolutionis beneficium in forma iuris meruerit optinere, ſicut idem Epiſcopus per literas ſuas patentes nobis ſignificauit. Tibi præcipimus, quód ipſum A. á priſona, qua detinetur, ſi ea occaſione & non alia detineatur in eadem, ſine dilatione deliberari facias, Teſte &c.

This writt is as a Juſticies, and if the ſheriſe make not execution of this writ, hee ſhal haue Sicut alias and Pluries And know ye, that when a man hath continued in ſentence by xl. dayes, and the Biſhop hath ſent hys writ to the kinges court, that he will not be reconciled by the order of holy Church, the king ſhall ſend to the Shirife that he be taken, & put in priſon, vntill ſuch time, as hee will be obedient againe to the law of the holie Church. But if the excommenge (after that he be in priſon) offer ſufficiẽt pawne, to be vnder the tuicion of holy Church, if the Biſhop refuſe ſuch ſatisfaction, hee ſhall

haue this writ to be deliuered out of prison.

A writ of Iuris vtrum.

REx Vicec' N. ſalutem, Si A. parſona eccleſiæ de B. vel ſic, ſi B. Prior eccl' beatæ Mariæ de L. parſona eccleſiæ de B. feceſ' te &c. tunc ſum' &c. xij. liberos &c. de vicinet' de C. quód ſint coram Iuſtic' noſtris ad prim' aſſ. &c. vel córam Iuſtic' noſtris apud V. V. tali die parati ſacram' recogn' vtrú vnum meſuag. cum pertin' in C. ſit libera eleemoſina pertin' ad eccleſiam ipſius A. de B. vel ipſius Prioris de B. aut laicum feod' I. vel ſic, vtrum ſit liber eleemoſina pertin' ad eccl' vel ad capellã, aut &c. & interim meſuag. illud videant, & nomina eorú imbreuiari fac', & ſum' per bonos ſum'm præd' I. qui meſuag. illud tenet, quòd tunc ſit ibi auditurus illam recogn', & habeas ibi ſum', & hoc breue, Teſte &c.

THis writte lyeth, when the right of any Church is alyened and holden in lay fee, or translated in the poſſeſſion of any other Church, and if the alyenor die, then his ſucceſſor ſhal haue the ſaid writ. And know ye that no man which hath couent or couent ſeale may maintain this writ. But a writ of Entre ſine aſſenſu Capituli, of the alyenation made in time of his predeceſſor, as appeareth clerely by a plee in Mich. 15. E. 3. where the gardein of the Hoſpital of S. plaied in aide of ỹ Biſhop of S. & had no aide, becauſe that the Hoſpitall hath couent ſeale. And know ye, that no man may vſe a writ of Vtrum, if he be not named Parſon. But now by the ſtatute of E. the 3. An. 14. ca. 16. which begynneth, Item eſt aſſent & eſtably q̃ Vicars, gardeines del chappels, Prouoſtes de Chaunteries perpetuals, pur-

purront vser cest briefe de Vtrum des terres ou tenements &c. And also I. of B. gardeine of the Hospital of S. brought a Writ of Vtrum the same yere, and was mainteined though that the statute aforesaid maketh no mencion of Gardeins of hospitals, but that was mayntenued, because it was in like case. And know ye, that the statut of West. 2. cap. 24. which beginneth, In quibus casibus conceditur breue in Canc', in which statut is conteyned this clause, Eodē modo sicut concedit' bre Vtrum aliquod tenementum sit libera eleemosina alicuius ecclesiæ, vel laicī feodum tale, de cetero fiat bre &c. And this writ was not graunted but there, where the almes of any church was translated into lay fee. Now it is ordayned in the foresaid statut of West. 2. that it shalbe grāted aswell there where it is translated into the possession of any other Church, as there where it is translated into lay fee. And the proces is such in this writ, Summons & Resummons against the party. And in Assise of Mortdaūcester, & against the Iurors, Sūmons, Habeas corp̄, & Distres. And in this writ shalbe geuen the same dates, as are geuen in assise of Darreine presentment, & Quare impedit, as it appeareth by the statut of Marlebridg. ca. 22

Know ye, that a recouery in Assise against the plaintife selfe, is no barre: for that, that this is a good writ of right, & p̄ plee is not but to the Iurie, otherwise is, if he had pleaded the estate of the plaintife selfe. H. 19. B. 2.

If the tenant plead a recouery in a Cessauit, that is no barre, for that, that the right is

to be tried, but he shall conclude: and so, lay fee. E.7.H.4.

Know ye, that if a man recouer in a writ of Right against a Parson, in which plee he hath not prayed in aide of his patron, in this case his successor shall haue a Iuris vtrum, and the recouery in the writ of Right shall not barre him. P.8.E.3.

In a Iuris vtrum brought by a Parson of a chappell, the writ was mainteyned for hym for that, that he toke his title by presentment & institution, as a Parson of a church. M.8.E.3.

¶ A writ of VVast.

REx Vic, salutem, Si A. fecerit &c. tunc sim &c. ostensur, quare cum de communi consilio regni nostri Angliæ prouisum sit, quòd non liceat alicui vastum, venditionem, seu distructionem facere de terris, domibus, boscis, seu gardinis sibi dimissis ad terminum vitę suę vel annorum, idem B. de domibus, boscis, & gardinis, vel sic, de domibus, boscis, & gardinis in N. quæ A. ei dimisit ad terminū annorum fecit vastum, venditionem, & distructionem ad exhæredationem ipsius A. contra formam prouisionis predict', & habeas ibi &c. Teste &c.

Eodem modo fiat ad terminum vitę, vel per legem Anglię, vel aliquo modo mutatis mutandis.

THis writ lieth, where tenant for terme of lyfe, or tenant in dower, or tenant by the curtesie, or Gardein in chiualrie, or tenant for terme of yeres, maketh wast, he in the reuersion shall haue this writ, where by the common law they had but a Prohibition of wast. And this writ is geuen by the statut

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of Weſtm 2.cap. 14. And in the ſame ſtatut Proces is ſuch, Summon, Attachment, & Diſtres. And if the partie come not at the diſtreſſe, then ſhalbe commaunded to the ſhirife that he inquire of the waſt, & if the waſt be found by the inquiſition of the ſayd Enqueſt, it ſhalbe returned, and the partie ſhall recouer treble damages, and the Enqueſt ſhall geeue but ſingle damages, and the court ſhall treble them, & alſo he ſhal loſe the place waſted. And that is geeuen by the ſtatut of Glouc cap. 5. which thus begynneth, Purquiew eſt enlement, que ſi home &c. And alſo the ſame ſtatute will, that if any gardeyne make waſt, he ſhal loſe the warde, but if the loſing of the warde amount not to as much in value as the waſt done, then thinfant at his ful age ſhal haue the ſaid writ of waſt & recouer his damages for the remnant. Alſo in caſe that the tenant for terme of lyfe, or of other perſons lyues, make waſt and let ouer his eſtate, then he in the reuerſion ſhall haue this writ of waſt againſt hym to whom the tenant for terme of life, or of other perſons lyues, let his eſtate, and he ſhal aunſwere of waſt made in his owne time, for hee taketh the lande in ſuch degree, as it was in tyme that the leſſee let his eſtate, but otherwiſe is in caſe the tenant in dower, or by the curteſie let ouer their eſtates, and they to whom the tenements are letted, do make waſt, he in the reuerſion ſhall haue a writ of waſt agaynſt thoſe tenants in dower, or by the curteſie, and not againſt the leſſee, for none may bee

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called tenant in dower, or by the curtesse, but the same tenants in dower, or by the curtesie. And it is said, that in case the tenant for terme of lyfe make wast, and surrender hys estate to him in the reuersion, and he doth accept it, and manure the land after, hee shal neuer haue an action of wast, for that he was not constrained by the law to receiue or take the land: the same law is of the other aforesaid tenants. And know ye, that if land bee letten to a woman sole, & she taketh a husband, & the husband maketh wast and dyeth, the wife shall aunswere of the wast, & lose the land, and yelde damages if the wast bee found, for that, that it was her folly that she would take such a husbād that would make wast. But otherwise is, where landes are letten to a man & his wife for terme of their lyues, and the husband maketh wast & dieth, the wife shal not aunswere for ỹ wast made after his death, for this was the folie of the lessor which letteth the land to the husband and the wyfe. The which wife shal not be charged of wast made in time of her husband. And know ye, that if the tenant for terme of life be disseised, and the disseisor make wast, and the tenant for terme of life do recouer by Assise, & such matter found by the enquest, in a writ of wast, he in the reuersion shall recouer of the tenant for terme of lyfe damages, for the tenant for terme of lyfe recouered damages against the disseisor, hauing regard to the wast made. And if the Gardein make wast, then shalbe done, as is contayned in

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Magna charta ca. 5. Custos autem &c. But there where the king selleth or geueth the warde of lands or tenements of any infant within age to any man of the same seigniorie, and the gardeine maketh wast, the king wil that he shal lose the warde, and shalbe geuen to two lawfull men of the same seigniorie. Also by the new statut of E. 3. An 14. cap. 12. all such landes which are in the hand of the king, because of a warde, shalbe letten to the next frindes of the infant, to whom the heritage may not discend (if they come lawfully into the Chaunceric) after the Diem clausit extremum returned, and there offer to take the said landes, yelding to the king the value, vntill the age of the said heire as another man will yelde, without fraude or deceyt, and shal haue a Commission to keepe the said landes and tenements, by good and sufficient surety, to aunswere to the king, of the value of the warde by the accord of the Chauncelor & Treasorer, and the heire shal haue an action of wast against them, when he commeth at his ful age. And also by the statut of E. 3. An 36. cap. If the Eschetor haue any such warde, & doth aunswere the king of the issues & maketh wast, the heire shal haue an action of wast, as wel within age as of full age, against the Eschetor, & shall make fine at the kinges wil. And the frindes of the infant, as long as he is within age, shal haue ꝑ suit, and thereof aunswere to ꝑ said heire of that, that so shall be recouered, when he commeth to his full age. And also in all cases where

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the heire within age may implead, his next frinds shalbe receiued to pursue in his name, as appeareth by the statut of Westm 2.ca.15 And it is said, that though the heire be of ful age, and in his lande, yet he shal haue (if he will) a writ of Waste against him that was Gardein to him or against him, to whom the Gardein let the warde, & after recouer damages. And know ye, that if the chief Lord infeffe any man of parcell of the same, that is in his ward, the heire shal haue Assise of Nouel disseisin mayntenant against the Gardeine & the tenant, and the Gardeine shal lose the wardship of the same thing recouered, and of al the remnant that he holdeth in ꝑ name of the heire for all his life. And that will the statut of Westm 1.cap. 47. which beginneth thus, Si gardeine ou chiefe seignior &c. And know ye that a writ of Waste shall not be maintened against the tenant by Elegit, nor against the tenant by statut Marchant, or by the statute of the Staple. But if they make Waste, he in the reuersion shall haue a writ of Accompt, and the said tenãts are accomptable after the debt or damages leuyed. And know ye against tenant in Mortgage no writ of Waste nor accompt is maintenable because that her hath fee conditional. And know ye that by the statut of westm 2.cap. 22. which beginneth. Cùm duo vel plures teneant boscum &c. that if woodes, turbarie, or fishing be holden in common, of two or three men, and the one of them make Waste, the other shall haue a writ of Waste fourmed in

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manet, Cùm A. & B. teneant boſcum vel turbariam pro indiuiſo, & fec' vaſtum &c. And if the waſt be found, it ſhalbe in the election of the defendaunt to take his part that is aſſygned of the Shirif in the place waſted, or that hee graunt that hee ſhall take nothing in ſuch woodes or turbarie &c. but as his partners will take. And if he will chuſe to take hys part in a place certaine, the place waſted ſhal be to him aſſigned. And in caſe that he graſit in the court, that hee ſhall non take otherwiſe then his compaignions will, and after hee maketh waſt, hys felowes ſhall bring the ſaid writ, and if hee will take his election, as he did in the firſt writ, he ſhall not be receyued, for the ſtatute geeueth but one election, and that he hath had, for the which theſe pleintifs ſhal recouer the place waſted.

And this writ lyeth aſwell betwixt them that holdeth for their lyues, as betwixt them that holde iointly in fee, and aſwell betwixt them that are in the tenement by dyuers titles, as by one title if they take the profites in common, and no man knowing his ſeuerall. As it appeareth Mich. 21. E. 3. fol. 1. when any ought to haue Eſtouers in any woodes, and the woodes be waſted and cut downe, then hee ſhall not haue Aſſiſe of Nouel diſſeiſin, and that by the ſtatut of Weſtm 2. cap. 25. which begynneth, Quia non eſt aliquod breue per quod &c. And if hee be dyſſeiſed of ſuch Eſtouers and dyeth, his heire ſhall haue a Quód permittat de eſtouerijs. And alſo if the heire bee diſturbed to haue eſto-

estouers maintenant after the death of hys father whereof he dyed seised, the heire shal haue a Quod permittat of estouers in the place of Assise of Mordauncester, the writ is such.

REx Vic' salutem, Præcipe A. quòd iuste &c. permittat B. habere rationabile estouarium suum in bosco, vel in turbaria, vel in bruer ipsius A. in C. quod in eo vel in ea habere debet & solet, vt dic' &c.

And also in case if the heire be disturbed as before is said, the writ shal say, quod permittat B. habere rationabile estouarium suum, in bosco ipsius talis in N. de quo C. pater prædicti B. cuius hæres ipse est, obijt seisitus in dominico suo vt de feodo. And know ye the executors may not maintaine a writte of waste, but it shalbe maintenable.

It is sayd that a writ of Waste lyeth at the common law against them whose estates are made by the law, as against the gardeine of a warde, tenant in dower, and tenant by the curtesie, and for that in such writtes it needeth not to rehearse the statute. M. 12. H. 4.

If a man do manace or threaten any bylleines which are regardant to a manor in another Countie, then where the manor is, so that they are cloyned and gonne away, the action of waste shalbee brought in the Countie where the manor is, and there shal the waste be tried, for the waste is all tymes in the manor, but of trespas, peraduenture the law is otherwise. T. 9. H. 6.

In a writ of waste of a house, it is a good plee to say, that after the lease, the lessour

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made the houſe againſt the wyll of the leſſee, iudgement &c. And this is a good plee. Ly. 49. E. 3.

In waſt the pleintife ſuppoſeth the waſt to be in dyuers thinges, that is to ſay, in a grange, houſe, and cottage, and dyuers plees were pleaded, as to the grange and cottage, as appeareth in the caſe, and as to the houſe he ſaid, that it was feeble at the time of the leaſe &c. and the pleintife ſaid that you your ſelfe, by this deede indented, which here is, graunted to repaire and keepe vp the ſayde houſe, in as good eſtate and better then they were, when he them receyued, ſo is hee bound to repaire and keepe vp the houſe &c. iudgement if hee ſhalbe receyued, to ſay that the houſe fell for feebleneſs, & it was iudged that this deede indented, ſhall not charge him in this action of waſt. My. 48. E. 3.

¶ A writ of Eſtrepament.

REX E. de P. ſalutem. Cum in ſtatuto apud Gloceſter dudum ædit' inter cætera continetur quòd á tempore quo placitum motum fuerit in Ciuitate London per breue, tenens non habet poteſtatem faciend' vaſtum vel eſtrepamentum de tenit', quod eſt in demaund' pendente placit', & qd eadē ordinatio & ſtat' in alijs Ciuitatibus & Burgis, & alibi, per totum Regnum Anglię obſeruetur, ac iam ex grauí querela VV. de T. accepimus, quod licet placitum pendeat coram Balliuis noſtris de S. per paruum breue noſtrum de recto, inter A. perentem & S. tenentem, de vna bouata terr', prati, boſci, cum pertinentijs in C. tu tamen vaſtum & eſtrepamen-

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mentum feciſti, & indiés facere non deſiſtis pendente placito prædicto, in ipſius VVill' diſpendium non modicum & grauamen, ac contra formam ſtatuti & ordinationis prædictorum, placito prædicto pendente indiſcuſſo. Teſte &c.

This writ is in maner a Prohibition, and lyeth where a man is impleaded by a Præcipe quod reddat, of certein lands or tenemẽts, and the demaundant ſuppoſeth that the tenant will make waſt in the landes or tenements hanging the plee, then he ſhall haue the ſaid writ, as is conteyned in the ſtatute of Glouc cap. 13. which begynneth thus, Puruiew eſt enſement que del heure et. And if the plee be moued in London, then the demaundant ſhal haue the ſaid writ directed to the Maior and Shirifs, that they ſhal cauſe the tenements to be kept, and that no waſt be made in them. In the ſame maner ſhalbee if the plee be moued afore the Juſtices, then the demaundant ſhal haue this writ directed to the Shirife of the ſame Countie, where theſe tenements are, to defende the tenant that he make no waſt hanging the plee.

And knowe ye, that this writ lyeth properly when a man demaundeth any landes or tenements by a Formedon or writ of right, where he ſhall recouer no dammages but in caſe that he bring a writ, wherein he ſhal recouer dammages, then he ſhall recouer dammages hauing regarde to the waſt. And alſo in caſe that he hath recouered by iudgement in the kinges Court, and the tenaunt after the iudgement geuen, and afore that the

demaundant be put in poſſeſſion by the ſhirif by force of a writ which is called habere fac. ſeiſinam, he maketh diſtruction, then he ſhall haue attachment againſt the tenant, to be afore the Juſtices at a certaine day, to ſhewe for what cauſe he made waſt, and there ſhall be mention made in the ſaid writ of the recouery had before. And this writ ſhal go out of the Rolles of the Juſtices, if it bee not in time of vacation when the Juſtices are riſen, and then it ſhalbe made in the Chaunceryе. And the proces is ſuch, Attachment and diſtreſſe, & for default of diſtreſſe proces of vtlawry.

In Eſtreapement againſt an infant, hee praied his age, and was put out for that that it is but in the nature of treſpas. In ỹ ſame plee it is ſayd, that proces of vtlawry lyethe not in this action. H. 3. H 6.

And if a man recouer lande, the which was ſowen, and afore execution ſued, the tenant hath reaped the corne, and caried it away in this caſe he that recouered, ſhall not haue a writ of Eſtreapement, but an action of treſpas. H. 28. E. 3.

¶ A writ of De homine replegiando.

REx vic' N. ſalutem. Præcipimus tibi quod iuſte & ſine dilatione repl' fac' A. quem B. cepit, et captū tenet, vel ſic, quē tu ipſe cepiſti & capē teneas vel quē B. cepit, & tu ipſe capē teneas vt dic' niſi capē ſit per ſpeciale preceptum noſtrum vel capiē Iuſtic' noſtri, vel pro morte hominis vel foreſta noſtra, vel pro aliquo recto, quare ſecundum conſuetudinem regni noſtri Angliæ non ſit replegiabilis. Ne amplius inde

clam̃ aud' pro defectu iusticię. Teste &c.

This writ lyeth, where a man is impriſoned, which is repleuiſable, then he that is in priſon ſhall haue the ſayde writte dyrected to the ſhirife, that he repleuy him which is in priſon except he be in priſon by eſpeciall commaundement of the king, or of the chiefe Iuſtice, or for the death of a man, or for the kings foreſt, or for any other cauſe (whereof he ſhall not be repleuiſable.) And knowe ye that this writ is a Iuſticies, & not returnable, but if ꝑ ſhirife make not repleuin by this writ, then ſhall go out a Sicut alias, vel cauſam nobis, ſignifices: and yet if he do it not, or if hee may not do it, then ſhall goe out Cum pluribus vel cauſam nobis ſignifices, which ſhalbe returned. And if the ſhirife make not yet repleuin, then ſhall there go out Attachement againſt the ſhirif, directed to the coroners of the ſame county, that they ſhal cauſe the ſhirife to be attached, & ouer that, that they ſhal make execution of the firſt writ, and that by the ſtatute of Weſtm̃ 1. cap. 15. Pur ceo que les vic' & auters &c. the ſhirif, conſtables nor bailifes of fee ſhal repleuin any man that is not repleuiſable: and if he that hath the keeping of priſons in fee doth otherwiſe, he ſhal loſe the bailiwike for euer & ſhal haue impriſonmẽt of thre yeres. And he that holdeth theſe priſoners (which are repleuiſable) after that they haue offered ſufficient ſuertie, ſhall be greeuouſly amerced againſt the king.

And knowe ye, that if a man do a treſpas within the forreſt, for which he is taken, and

put

put in prison and the gardeyne of the forest will not him repleuin, nor let him to mayn-prise: a writ shall be sent to the shirife of the place to attache the said gardein, to be before the king at a certaine day, for to shew wherfore hee hath not made repleuin of the sayd man, and be it contained in the writ, that the shirife call the verdours, and the names of the maynpernours to make delyuerie to the sayd verdors, and aunswere the Eire before the Justices. And that by the statute of Edwarde the third. Añ 1 Cap. 9. which beginneth. Cum Hugh &c. And know ye that no man shall be taken nor imprisoned for vert, or venison if it be not founde by verdict or endictement: in which two cases he shall let to maynprise by the wardeine of the office, or otherwise by writ, or the gardeine shall be attached as is aforesaid. And the fourme how a man may be indicted for trespas of vert or venison, is contained in the statute, which is called Additio de foresta made in the time of king Edward, sonne of king Henry. Añ 34. And know ye, that for trespas in parkes a writ of trespas is giuen to the party, to recouer his damages, or els the king shall haue ꝑ suit after the yere and the day, as is mentioned in the statute of Westm̃ 1. cap. 20. which beginneth. Puruieu est ensement que malefactors in parkes ou en viuers &c.

¶ A writ of Replegiare de auerijs.

REx vic' saluſ. Precipimus tibi quod iuſte &c. repleg. fac' A. de R. aueria ſua, quę B. de VV. cepit

& iniuſte detinet vt dic'. Et poſtea cum inde iuſte deduci facias. Ne amplius inde clamorem audiamus pro defectu iuſticię. Teſte &c.

THis writ ſhall go out of the Chauncery, directed to the ſhirife, that he make deliuerance of the beaſts of the tenant which are in name of diſtreſſe And if the ſhirife ſerue not the writ, then ſhalbe made as is afore ſayde, De homine replegiando. And know ye that in taking of beaſts vj. things are neceſſary, that is to ſay, very lord, very tenant, ſeruice beehinde, the day of the taking, ſeiſin of the ſeruices, and within his fee. And know ye that a man is not very tenant vntil he hath attorned to the lord by ſome ſeruices. And know ye that a man may haue a repleuin, aſwel by plaint to the ſherife or bailifes of the fraunchiſe, as by writ. And know ye that the ſtatute of weſtm 2. Cap 2. which beginneth. Quia dominus feodorum &c. wil, that if the tenant haue repleuyed his beaſtes by writ in the countie, the lord ſhall haue a pone out of the Chauncery, dyrected to the ſhirifes that he remoue the plee, which is in the county or in other court, betwixt one ſuch lord, and one ſuch tenant into the kings court, & the pone ſhall ſay: Pone loquelan que eſt in com tuo per breue noſtrum, inter I. & K. de auerijs ipſius I. captis & iniuſte detentis &c. And alſo the defendant may remoue, but not without reaſonable cauſe as it appeareth more plainly by the Regiſter. But if the plee be without writ in countie or in court Baron, then may the plaintife remoue the plee into the common

banke

banke by the Recordari facias. And in the same maner may the defendant wyth reasonable cause. And knowe yee, that if the Lord that distrained, do distraine another time after þ that the shirife hath made repleuin by writ or without writ, as well afore the pone or the recordare as after, and for the same thing, for which he toke the distresse, afore the plaintife may haue a writ directed to the sherife for to attache the Lorde for to be before the Iustices of the common banke at a certayne day to aunswere, wherefore he toke the second distresse for the same cause, if the dystresse be made after the pone or after the recordare, then the writ shal commaund the shirife, that he haue the bodie of the Lord before him and his coroners at his next countie, & if the Lord be conuicted of the seconde distresse taken for the same cause, by the same bailifes which made the repleuin, or by other good people of the same county, then he shall be amerced so greeuously ye that his chastisement, in casu consimili timorem alijs prebeat taliter delinquentibus exemplum. And this writt is maintayned by the statute of Marl Cap 3. which beginneth, Ne quis maior aut minor. And the proces is in this writ of pone, somons, Attachmēt, & distres. And for default of distresse, protes of vtlawrye against the defendant. And that appeareth in a maruellous case that the Lord shal haue the pone, for by the common law, the defendant shal not haue the pone, and the Lord in this case appeareth to be defendant, when þ tenant hath brought

againſt him a replevin, but it is not ſo here, for as much as the Lord diſtreined his tenāt, for the ſeruices and ſuits, which to him were due. And therefore it ſhalbe intended that he is demaundant, and not defendant. And this clauſe ſhall bee put in the pone. Quia talis diſtinxit in feodo ſuo pro ſeruicijs ſibi debilis &c.

In repleuin it is a good plee for the defendant to ſay, that the propertie of the beaſts, was in one ſuch and not in the playntife. H.20.H.6.

If the lord diſtraine his tenant, notwithſtandinge that the tenant haue agayne hys beaſtes, hee ſhall haue a repleuyn, for that that hee maye not haue an actyon of Treſpaſſe. And it is a good plee to ſay, that the playntife hath nothing but in common P. 33.E.3.

And in a repleuin brought in by dyuers perſons, the defendant may ſay, that the propertie is in one of theſe plaintifs & not to al. And if a mā take a falſe writ of repleuin, by the which the defendant hath returne, the plaintife ſhal haue a new repleuin, and ſo he may haue of as many falſe writs as he will, for that that ꝑ ſtatute doth remedy but one ſuyt onely. P. 1.H.6.

If a man in a repleuin aduow the taking of the diſtreſſe &c. & the diſtreſſe is corne in the ſheaues, that is no good aduowry, for it is ſaid that a mā may not diſtreine wheat in ſheaues, ne other maner of corne except that they be in a cart, for a man may not diſtreine

in

in shokes, for the iolle that may followe in scattering of the same corne &c. And so it is of money, if it bee not in a bagge sealed, for that, that one peny may not be knowne by the other, and that appeareth in trespas. H. 21. E. 3.

He that is a straunger to aduowry shall charge the aduowant, to aduowe vpon him though he claime not by him, vpon whom the aduowry is made, if he may lay seisin by the plaintifes hands, for if the aduowant accept him for his tenant though that he come in by disseisin or otherwise he shall aduowe vpon him. And it is said in the same plee if ỹ bayliffe make cognisance and the Lorde ioine to him, the plaintife shall recouer dammages against the lord. And if the lord aduow for the same cause, the bailife is maintenant out of the court. P. 18. E. 3.

If a rent be graunted to me, and another, & my fellowe releaseth to me, I shall make aduowry for al the rent, & yet I am by seuerall titles, but it is conuenient ỹ I shewe the release in mine aduowry. T. 33. E. 3.

Hee that hath estate of one copercener, shal aduow for a rent graunted vpon ỹ purparty wout deede, & shewe the matter in his aduowry whose estate he hath. T. 3. E. 3.

If the meine be forjudged, the Lorde shall aduowe vpon the tenant for the arrerages in the meane time afore the forjudger &c. for he may not aduowe vpon the meine, in so much that the meinalty is extinct. H. 7. E. 3.

¶A writ of non admittas.

REx vic' ſalutem. Cum per breue noſtrum tibi p̄cepim⁹, quod aueria A, que B. cepit & iniuſtè detinet, vt dic', eidē A. repl'fec', vel cauſam nobis ſignifices, quare mandata noſtra tibi inde directa exequi non potuiſti aut noluiſti, ac balliui C. de V.V. quibus returnum breuis noſtri tibi inde directi habere feciſti, nihil inde facere curauerunt, prout nobis ſignificaſti, precipimus tibi quod propter libertatem prædictam non omittas quin eam ingrediaris, & auer̄ prædict' eidem A. ſine dilac' repl'facias eodem tenore breuis noſtri inde tibi directi. Teſte &c.

THis writ lieth where any writ is directed to the ſhirife for to do the kinges cōmaundement. And the ſhirif doth retorne the writ, and ſayeth that hee hath ſent to the bailifes of the fraunchiſe, which haue retourne of writtes, within which fraunchiſe the writ ſhal be ſerued, and the bailife ſerueth not the writte, then the partye plaintife ſhall haue the ſaid writ directed to the ſhirif (Quod non omittat &c. quin exequatur preceptum domini regis &c.) And alſo a man may haue auerment alſwell againſt the bailife of the fraunchiſe, which hath whole retorne of the kings writ, as againſt the ſhirife, alſwel of ſmal illues ſo returned as in other caſes, as it appeareth by the ſtatute of E. 3. añ 1. ca. 5. And as it is cōtained in the ſtatute of Weſt. 2. cap. 39. in the mids, which beginneth: Mulrocies etiā &c. that the ſhirife ſhal warne the bailife, that he be afore the Juſtice at a certaine day, as is contained in the kings writ, and if he come at ꝑ day limitted, and him acquite, that the ſhirife

to

to him directed not any precept, then the shirife shalbe condempned to the lord of the frãchise, and yelde damages to the party greeued. And if the bailif come not at the day assigned, or him acquite, then al the writs Judicialles, which shal go out of the banke to the shirif (during the same plee) shalbe called Non omittas &c. And the shirife shal make execution of all the writs during the plee. And in this case the lord shall lose the fraunchise hanging the plee. And know ye, that if the plee of VVithernam be in the county, and the shirife sende to the bailife of the franchise for to repleuin the beastes or goods, which are taken in the name of distres, and the bailyfe will do nothing, then the sherife of his office may enter in the fraunchise without writ, As appeareth in the statute of Marl' ca. 21. which beginneth: Prouisum est etiam, quod si aueria &c. And also the statute of West. 1. cap. 17. which beginneth: Purueu est ensement que nul &c. And therefore it is not holden in the one case ne in the other &c.

¶ A writ of withernam.

REx vic' salutem: Cum pluries tibi precepimus qđ iusté et fine dilatione repl' fac' A. aueria sua, quæ B. cepit & iniusté detinet (vt dicit) vel causam nobis significares quare mandata nostra tibi inde directa exequi noluisti aut non potuisti, ac tu nobis significaueris quod postquam prædictus B. auer prædicti A. cepit in com tuo, et ea a comitatu illo fugauit de com in com, ita quod inueniri non potuerunt. Nos malicię prædict B, obuiare volentes in hac parte, tibi

tibi precipimus quod aueria prædicti B. in ballia tua capias in VVithernam, & ea detineas donec aueria pæd' A. repl' possis iuxta tenorem mandatorum nforum inde tibi directorum, Teste &c.

This writ lyeth where the lord distreineth his tenant for certaine seruices, or suits, and the lorde doth chase the distres to a fortelet, or to a castell, or out of the same county where the distresse was taken, into another county, or otherwise, so that the sherife may not haue the sight of the beastes, for to make repleuin, or in such lyke maner as appeareth by the Register. And if the tenant bring his writ of Repleuin, Sicut alias & pluries, and the shirife retorne that he may not haue ꝑ sight of the distresse, for that, that the distresse is chased to a fortelet, or castell, or out of one cõtie into another, then the said tenant shal haue the said writ &c. And know ye that by the statute of Westm 1. cap. 17. which beginneth: Puruieu est ensement, que nul desormes &c. that if any enclose the beast, which he hath takẽ in name of distres, in a fortelet or castel, that the shirife may do as is contained in the same statute, at the suit of the plaintife, that is to say, the shirife shall go to the castell, or fortlet, and there warne the Lorde, or hym that tooke the beastes, to make deliuerance, & if he will not make delyuerance, then he shal abate the castel or fortlet for the trespas and despite done to the king. And know ye, that if the distres be taken within a fraunchise, & the baylife of the fraunchise will not redelyuer, then the shirife after complaynte to him made,

made, may deliuer the diſtreſſe by his officer, As it appeareth in the ſtatute of Marl. cap. 21. which beginneth: Prouiſum eſt etiam, quod aueria &c. And the proces is in this ſuit, as in the Pone.

Knowe ye, that in a Replevin at the Pluries it was returned, aueria elongata ſunt, and the defendant appeared, and notwithſtanding a VVithernam was awarded, and for that, that it was awarded erroniouſly, the Juſtices awarded a Superſedeas for the defendant, to the ſhirife to ſurceaſe, and if hee haue taken the beaſtes of the defendant that he them reſtore, and the ſhirife returned, that before the ſuperſedeas to him deliuered, he hath deliuered the beaſts of the defendant to the plaintife. And that the plaintife thē hath eſſoined, ꝑ he may not them reſtore to the defendant. And the defendant appeareth, & pleadeth to the originall that he tooke them not, & prayeth a withernā againſt the plaintife. And the court ſaid, ꝑ if the plaintife wil not wage deliuerāce, that he ſhal haue it. M. 7. E. 4. 15.

In a Replevin after anſwer, the plaintife is nonſuit, & the defendant ſueth a writ de Returno habendo, and the ſhirif returned, that they were eſſoined. In this caſe he ſhall not haue a VVithernam before ꝑ he hath ſued a ſcire facias againſt his pledges. So knowe yee, how a Withernā ſhalbe awarded againſt the plaintife. T. 7. R. 2.

Note ye that the ſhirife may award a withernam in his countie where the replevin is ſued by plaint, for otherwiſe it ſhalbe in vaine

to

to ſue a repleuin before him, if hee may not make proces M.21 H.6. H.9. E.4.48.

Know ye, if the beaſtes of the defendant be taken in VVithernam, the ſhirife ought not to deliuer them to the playntife, but ought to kepe them vntil the defendant will deliuer the other beaſtes firſt taken. For the writ will Quod capias &c. & detineas quouſque &c. And ſo is to be entended in the common bank, otherwiſe is in the kings bench. And ſo know the diuerſitie. M.2. H.4.9.

The ſhirife may take xx. Oxen in VVithernam, notwithſtanding the repleuin be but of one Oxe. And if the repleuin be of pots & pans. he may take in Withernam Oxen and other goods. Fi 22. H.6. M.31. E.3.

¶A writ of Libertate probanda.

REx vic' ſalutem. Monſtrauit nobis A. quod cum ipſe liber homo ſit, & paratus libertatem ſuam probare, B. clamans eum natiuum ſuum vexat eum iniuſte. Et ideo tibi precipimus, quod ſi prædictus A. fecerit te ſecur' de libertate ſua probanda, tunc ponas loquelam illam coram Iuſtic' noſtris ad primam aſſiſam, cum in partes illas venerint, quia huiuſmodi probatio non pertinet ad te capiend', & interim eidem A. pacem inde haberi fac', & die' præfat' B. quod ſit ibi loquelam ſuam verſus prædictum A. inde proſecutur' ſi voluerit. Et habeas ibi hoc breue &c.

¶A writ de Natiuo habendo.

REx vic' ſalutem. Precipimus tibi quod iuſte & ſine dilatione habere fac' A. natiuum, cum omnibus catt' ſuis, & tota ſequela ſua vbicunque inuentus

fuerit

fuerit in ball'tua, nisi sit in dñico nostrō qui fugit de terra sua post coronationem domini H. R. prog. nostri. Et prohibemus tibi super forisfacť, ne quis eū iniuste detineat, Teste &c.

Aliter si manserit in dominico per minus tempus, quā per vnum annum & vnum diem, tunc fiat pro domino natiui hoc breue.

REx vic' salutem. Precipimus tibi quod nisi A. quē B. clamat natiuum suum in com tuo per breue nostrum manserit in dominico nostro de N. per vnum annum & vnum diem sine calumnia non remaneat loquela prædicta in comit tuo, eò quòd mā-serit in dñico nostro per minus tempus &c.

THese writtes lye for the Lord, when hys nieke is fled from him, then the Lord shall haue these directed to the shirif, in what coū-ty soeuer the nieke is abiding or dwelling, ꝙ he cause the Lord to haue his nieke with all his goods. And know ye that in such writs mo nieces may not be demaunded then two. But mo nieces may bring the writ of Liber-tate probanda, and that is in fauour of libertie. And if the nieke purchase his writ of Liber-tate probāda before that the Lord purchase his Pone, he shall be in peace vnto the next assise of Justices in Eire: but if the Lorde purchase his pone before the nieke purchase his writ of Libertate probanda, then the writ of Libertate probanda is nothing worth for the nieke. And in this writ it behoueth, that the lord proue, that he was seysed of him, or of his blode. And if the lord can proue no seisure of any of his blode, he shal winne nothing, if the nieke haue not knowledged him selfe, in Court of recorde,

recorde, to be his villeine. And know ye, that if two coparceners bring a writ of Natiuo habendo, and the one is nonsuit, The suite of both shall faile, and that is in fauour of liberte.

And know ye by the statute of E. 3. An 23 De prouis. victualium ca. 18. that notwithstanding the adiournmēt in Eire in fauor of nefs, for delaying their lords of their actiō against such nefes, the lordes shalbe receiued to alledge exceptions of villenage against their persons in al writs, where that the said writ of Libertate probanda is purchased by disceit, & the lords may seise ꝑ bodies of those villeins alwel as they may afore such writs of Libertate probanda were ordayned or purchased. And loke the statute of Ric. the 2. ca. 6. An 2. which beginneth. Al greuous plaints que touchont lestat de villeins &c.

And know ye, that if the villeine of any lord haue dwelled in auncient demesne of the king, by the space of a yere and a day, without sclaunder of the Lord or claime, he may not haue him by no writ out of ꝑ said auciēt demesne. But it is said, if he be found out of auncīēt demesne, ꝑ lord may seise him as his villein. And know ye ꝑ this writ is bicountiel, & not returnable, but it may be remoued by a Pone out of the County, into the cōmon bank, as it is said. And know ye in case ꝑ the lord be not able to distraine his villaines, to cause them make & do their seruices, he may haue a bill directed to the shirife, for to be aydyng to him there, wher he is not sufficiēt &c.

¶A

¶A writ de Moderata miſericordia.

REx balliuis A. de I. (vel tali domiñ, vel vic') ſalutem. Monſtrauit nobis A, q̄ cum ipſe nuper amerciend' eſſet in cur̄ tua de N. vel in cur̄ prædicti domini tui de I. p modico delicto in q̄ incidit, ac tu (vel vos) ab eo grauem exigis (vel exigitis) redemptionem, contra tenorē Magnæ carte de libertatibus Angl', in qua continet̄ quod nullus liber homo amercie̅, niſi ſecm̄ quātitatē delicti, & hoc ſaluo cōtenēto ſuo, & villanis ſaluo wainagio ſuo. Et ideo tibi vel vobis præcipimus quod a præfato A moderatam capias (vel capitatis) miſericordiam, ſecund' quātitatem delicti illi⁹, ne clamor ad nos inde perueneat iteratus. Teſte &c.

This writ lyeth in caſe where a man is amerced in Countie or court baron, more greuously then he ought to be amerced, in hauing no regarde to the quantitie of the treſpas, then he ſhal haue the ſayd writte to the ſhirife, if it be in County, or to the bailife, if the plaint be in court Baron, that they ſhall not amerce him ouer greuously, but after the quātity of the treſpas. And if they moderate not the amerciament by this writ, then ſhall there go out a Sicut alias, vel cauſam nobis ſignifices. And know ye: that the Regiſter in this caſe geueth no other proces after the Sicut alias, but a Somons. Et ideo quære. And if they do nothing by this writ, then ſhall go an attachement out of the Chauncery againſt the̅, that they be before the Iuſtices at a certaine day, and after the attachmēt returned, if they come not: then ſhal go out a Diſtres, & for default of a Diſtres, proces of outlawry.

And

And knowe ye that no man ſhalbe amerced by the lawe, but hauing regarde to the quantity of his treſpas. A marchant ſauing his marchandiſe, and a villaine ſauing his gaynage, hauing regarde to the quantitye of the treſpas, as appeareth in Magna carta cap. 14. Nullus liber homo amercietur &c. & in Weſt. 2. cap. 6. which beginneth. Et nul citye, borough, ne villein, ne nul home amercie ſans reaſonable encheſon &c.

¶ A writ de Tranſgreſſione.

REx vic' ſalutem. Si A. fecerit &c. tũc pone B. &c. quod ſit &c. tali die oſtenſ quare vi & armis in ipſum A. apud N. inſultum fecit, & ipſum verberauit, vulnerauit, & male tractauit. Et alia enormia ei intulit, ad graue dampnum ipſius A. & conſ pacẽ noſtram. Et habeas &c. Teſte &c.

Aliter de querera. Oſtenſuſ quare in querera ipſius A. apud F. foderunt, & petras ad valentiam xx. li. ſine licentia & voluntate ſua ceperunt &c.

Aliter de columbis. Oſtenſ. quare columbare ipſius A. apud T. noctanẽ fregit, & columbas ſuas in eodem colũbari exiſtentes malitioſe interfecit, per q̃ idem A. volatum eiuſd' columbaris totaliter amiſit, & alia enormia &c.

THis writ lyeth where ỹ Treſpas is made or done to any man or woman, and ſuppoſed that the Treſpas is done with force and armes. Then he to whom the Treſpas was made, ſhall haue his writ, & in this writ he ſhal recouer damage.

And note ye, that the ſtatute of Weſtm 1. cap 37. which beginneth. Pur ceo que aſcun

gents

gents de la terre &c. a man shall haue a writ of Attaint in plee of Lonwn, or freehold, or of a thinge that toucheth freehold. And now by ỳ new statuts of an 1 E. 3. cap. 6. Attaynts shall be graunted in writs of Trespas aswel vpon the dammages, as vpon the principall. And the Chauncellor hath power to graunt this writ without speaking to the Kinge. And that the Justices in no case of attaint shall let for to take Attaints of the dammages not payed. And by the statute made An. 5. E. 3. ca. 7. in the ende, A man shall haue a writ of Attaint in plee of Trespas, moued before the Justices without writ if the dammages adiudged, passe xl. s. And after by the statute of the same king Anno 28. chap. 8. A writ of Attaint shall be graunted aswel vpon a bill of Trespas, as by a writ of Tresspas without hauing regard to the quantitie of the dammages. And after by the statute of the same kinge Anno 34. chap. 7. A man may haue Attaint aswel of plee reall, as of plee personall. And that the writ of Attaint be graunted to powre men, that will sweare they haue nothing, whereof they may make fine, sauing their countenance, they shal haue it without fine, as all other shall haue it for the fine.

And know yee, that a writ of Tresspas ne Attaint shall not be mainteyned, if the dammages passe not xl. s. before Justices. And no shirife shall hold plee in countie, if the damages passe xl. s. And that is ordained by the statute of Glocest. chap. 8. which beginneth:

Puruiew eſt enſement que viconts &c. And this writ ſhall not be remoued into the common bank with cauſe nor without cauſe. But if the plee be in county, and without writ, it may be remoued afore the Iuſtices, becauſe þ the plee toucheth freehold, or in caſe that þ defendant w clayme the plaintife to be his villein, & ſuch like caſes. And alſo this writ hath bene of Record by ſuch cauſe: that the ground where the trees grew, was the freehold, contra quem clamor eſt: and the proces is in this writ, Attachment & Diſtres, and for default of Diſtres, three Capias and an Exigent proclaimed in fiue counties.

In a Treſpas it was ſaid: If a leaſe bee made to a man for terme of yeres, & after the terme is expired, and the leſſee holdeth him in, & the leſſor entreth not: that for the occupation after the terme, this writ of Treſpas will not lie. T. 22. E. 4. 13

It was ſaid in Treſpas &c. that for the miſuſer of a thing taken for damage feſant, a man ſhall be charged as a Treſpaſſor from the beginning: & ſo it is of a diſtres taken, if it be miſuſed &c. And in this caſe if þ defendãt will iuſtifie for damage feſant, & the plaintif ſhew how he hath miſuſed that: & ſo of his owne wrong, that is no good replication: But hee ſhall ſhew the miſuſer & no more: for the law in it ſelfe ought to ſeeke that out. H. 22. E. 4. 47

In Treſpas a diuerſitie was put: when a man is impleaded for not doinge of a thinge that he ought to do: and when he hath done a

thing

thing that he ought not to do: for in the first case he thinketh that he shal not be punished by action of trespas, Quare vi & armis, but an action vpon the case lyeth: but in the other case hee shall be punished Quare vi & armis. Quære tamen. M. 12. H. 4.

In Tresplas, quare filium & hæredem abduxit &c. and for that, that hee shewed not that the mariage to him belongeth, exception was taken: but for all that (as it is thought) it is not allowable: for it may be, that the auncestor of the Infant held of the plaintife by knightes seruice: and yet he shall not haue y mariage, for he may hold of another by Priority. H. 12. H. 6.

In Tresplas against three, they pleaded not guilty, and found guilty, the one dieth after the enquest taken: yet the plaintife had iudgement to recouer against the other that were aliue. T. 2. H. 6.

In a writ of Tresplas of wastes taken, the defendant iustified as bailife for seruices behind &c. And the plaintife said, that he was not bailif &c. & whereof they were at issue: y plaintif shewed in euidence, how he toke the in claiming them as heriots for him selfe. ¶ Thorp. Though that the Lord after agree to his taking for seruices due to the lord, yet he may not be said his bailif. But if he take them without commaundement for seruices due to the lord, & the lord after agree to the taking, he shalbe iudged as bailif, though y he was not his bailife in no place afore the taking: & so know the diuersitie. H. 7. H. 4.

In Treſpas of two Charters taken a-way, the defendant pleded not giltie, & was found giltie to the dammages of xl.s. And was pleaded in arreſt of iudgment there, that the plaintife ſhewed not in his declaration, how much land was compriſed in the charters, & not allowed. And diuerſitie was put betwixt this action, & a writ of Detinue of Charters: For in Detinue he demandeth the charters, & there he ought to ſhew þ certaintie of the land: for if the charters be burned, he ſhall recouer damages after the value of the land compriſed &c. But in this action he demaundeth not the charters, but is to puniſh the defendant for the taking away, and the plaintif hath iudgment to recouer. And note this good diuerſitie. T. 19. E. 3.

A writ of Diſceit.

REx vicecomiti ſalutem. Si A. fecerit &c. tunc poñ B. &c. q̄ ſit &c. ad reſpondend̄ tam nobis q̄ prefat̄ A. quare p quod̄ breue nr̄m p finem C. ſolid̄ ad opus nr̄m p breue præd̄ capiendor̄ nomine prædict' A hoc penitus ignorantis fraudulenter et malitioſe in Cancellaria noſtra impetrauit in deceptionem Curiæ noſtræ, et ad graue dampnum ipſius A. vt dic'. Et habeas ibi nomina pleg. et hoc breue. Teſte &c.

And when it is Judiciall, it is ſuch.

REx vicecomiti ſalutem. Ex parte A. nobis eſt oſtenſum q̄ B. in curia &c. falſ̄ et in deceptiõ eiuſd̄ cur̄ nr̄æ recuperauit ſeiſinam ſuam verſus eum de

de tribus meſuag. cum ptiñ in E. vt ius ipſius B. per defaltam ipſius A. cum idem A. nunquam ſum̃ fuit ſecundum legem terræ, eſſendi coram Iuſtic' nr̃is apud weſtm. &c. ad reſpondend̃ præd̃ B. de placito præd̃: nec prædicta meſuag. nunquam capta fuer̃ in manum nr̃am ob aliquam defaltam ipſius A. nec idem A. iteratò ſum̃ fuit eſſendi &c. apud weſtm̃, ad reſpondendum præd' B. tam de prædicto principali placito, quàm de defalta prædicta, prout mos eſt in regno noſtro. Et ideo tibi præcipimus, quòd diſtringas A et B primos ſum̃, per quos B. vic' nr̃ com̃ prædicti mand̃ Iuſtic' noſtris apud w. quòd ſum̃ p̃dict' A. eſſendi &c. apud w. &c. ad rñdendū prædict' B. de placito prædicto. Et etiam L. vnum per cuius viſum et quorundam T S. H et I. qui mand̃ Iuſtic' nr̃is apud w. q̃ prædicta tertia pars capta fuit in manum nr̃am: et etiam w. vnum de ſcd̃is ſum̃, per quem vic' mand̃ Iuſtic' noſtris apud weſtm̃ q̃ A. ſum̃ fuit eſſendi &c. apud weſtmonaſt. &c. ad reſpond̃ p̃d̃ B. tam de principali placito, quàm de prædicta defalta, et omnes terras &c. octabis Purificat̃ ad certificandum prædictis Iuſticiarijs noſtris, ſimul cum prædict' A. T. S. H. et I. de ſum̃ in captione prædict', ad audiend̃ iuditium ſuū de pluſ defaltis. Præcipimus etiam tibi, quòd diſtr̃ prędictum G. nuper vicecomitem comitat̃ prædicti, et omnes terras, res, redditus &c. quòd ſit &c. ad præfatum terminum ad certificandum ſimul &c. et ad audiendū iuditium ſuum &c. Et tu ipſe tunc ſis ibidem in p̃pria perſona tua ad certificandū præfatis Iuſticiat̃ noſtris ſimul &c. Et habeas &c. Teſte &c.

This writ of Diſcett is ſome times originall, and ſome times iudiciall. But when it is originall, then it lyeth in caſe where any

diſceit is made to a mā by another, by which diſceit he may be diſherited, or otherwiſe euil intreated, as it appeareth by the Regiſter, then he that is in ſuch maner diſceiued, ſhall haue the ſaid writ. And the Proces is, Attachment and Diſtreſſe, vntil the partie appeare. And when it is Judiciall, then it lyeth out of the rolles of Record. As in caſe where a Scire facias is ſent to the ſhirife, that he warne a man to be before the Juſtices at a certeyne day, and the Shirife returne the writ ſerued, where the ſayd man was not warned, by which diſceit the partie that ſueth the Scire facias recouereth, then the party which ought to haue bene warned, ſhall haue the ſaid writ againſt the partie which hath recouered directed to the ſhirife of the ſame countie. And alſo it lyeth in caſe where a Præcipe quod reddat is brought againſt a man: By force of which writ he ſhall be ſummoned to be before the Juſtices at a certaine day, & the ſhyrife hath returned, that he was ſommoned, where he was not ſommoned: vpon which faiſe returne & diſceit of the ſhirife, the demaundant ſhal recouer ſeiſin of ꝑ land by the default of the defendant: then he to whome ꝑ diſceit was made, ſhall haue the writ directed to the ſhirife of the ſame cõtie, that hee cauſe the partie to come, which hath recouered, and alſo the ſomoners, to aunſwere of the diſceit and falſeneſs, that they haue made aſwel to the king as to ꝑ partie. And it ſhall bee commanded to the ſhirife, that he take the land into the kinges hand, if the one or the

other

other hath the land, vntil the plee be discussed betwixt them, & the shirif shal aunswere and make accompt in this case, of al ỹ issues, that commeth of the land in the mean time, to the Barons of the Eschequer. And know yee, that if the somoners die afore that they bee examined, the plaintif in this action shall neuer recouer the land: but then he shall haue a writ of disceit vpon his case against the shirife and recouer against him all in damages. And know ye, that when this writ is sued against the shirife: the Coroners of the countie shall make execution of the writt as the shirife shall do, if the writ were brought against a stranger. And so it shalbe done in all cases, where proces is made against the shyrife in his countie. And now by the new statutes of E. 3. anno 2. cap. vltimo, A writ of disceit shalbe mainteined, & shall hold place aswel in case of garnishmēt, which toucheth plee of land, there where such garnishment is due, as in case of Sommons in plee of land &c.

Know ye, that if Disceit be made in the kings bench, Chancerie or in the Eschequer, this writ shalbe brought in the places where those disceits were made, and not elswhere. But of Disceit before Justyces of trial Baston, or of Oyer and Terminer, after office determyned, a writte of Dysceit shall bee brought in the common Bank, and it is conuenient for him to haue the Record, if disceit be made in any other place. And know yee, that a writte of Dysceit lyeth agaynst

the attorney: if he be absent by Disceit. M. 22. E. 3.

And know ye, that a writ shal not abate for default of forme, if he haue good substance And if attorney be informed by his master to pleade a false plee, the which hee may not plead by conscience, he may haue such entre, quod non fuit veraciter informatus, ideo nullum &c. for to aide him in a writ of Disceit. M. 16. H. 6. T. 9. E. 4.

A writ of Disceit was graunted by the Iustices in a writte of waste, where at the graund Distres the plaintife had a writ to inquire of the waste: and by the inquisition ỹ waste was found, by which the plaintif hath iudgement to recouer, where the defendant was neuer somoned, attached nor distrained, and the writt mainteyned. T. 19. E. 3.

A man recouered in a Præcipe quod reddat against iij. of certaine land by default, one died, these ỹ shal haue a writ of disceit if they were not somoned, notwithstãding that the action was geuen to the third in his life, for that, ỹ it falleth in inheritance: & it was said that if the iudgment bee geeuen against two by default, wherof the one was tenant, & the other hath nothing, he that was tenant shall haue a writ of disceit, notwithstanding that the Record proueth these two to be tenants. And also it was said, that the king shal haue the issues of the land after the first iudgmẽt, & not the party which recouered by disceyt. And also it was said that the heir shal haue a writ of disceit of iudgment tailed against his

his father of certeine land, but he in the reuersion shal not haue a writ of iudgemēt tailed against his tenāt for terme of life &c.

A writ of Reſcuſſe.

REx vic' ſalutem. Si A. &c. tunc pone &c. B. quod ſit &c. apud VV. &c. oſtēn, quare cum idem A. per H. ſeruientem ſuum quendam equum ipſius B. apud N. in feodo ſuo pro conſ. et ſeruic' ſibi debitis capi feciſſet, et idem H. equum illum ibidem ſecundum legem et conſuetudinem regni noſtri Anglię inparcare voluiſſet, et prędict' A. equum illum vi et armis reſcuſſet, et alia enormia &c. ad graue, &c. Teſte &c.

THis writ lyeth, where any lord diſtreineth his tenant in his proper fee, for certeine rents, or ſeruices, or cuſtomes behind, and the tenant come with force and armes, and will not ſuffer the lord, nor his ſeruant or him to take the diſtreſſe, but to them make reſcuſſe, then the lord ſhall haue the ſaide writ. And alſo if any bailife, or miniſter of the king, or of any other lord, to whom ſpeciall auctoritie is giuen to diſtreine, and reſcuſſe to them be made, they ſhall haue the ſaid writ. And in the ſame maner may the ſhirife or other bailife, which hath power to take any man by the kings commandement, if reſcuſſe to them be made. And a man may haue the ſaid writ in many other caſes, as appeareth by the Regiſter more plainly. And the proces is in this writ, Attachement and diſtreſſe, & for default of diſtreſſe iij. Capias & one Exigent, as in a writ of Treſpas for it

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is ſuppoſed that he made reſcuſſe with force and armes againſt the peace.

Know ye, that if the lord come to diſtreine his tenant, and ſee the beaſtes: and the tenant chaſe them from him, the lord ſhall not haue a writ of reſcuſſe, for that, that he hath no poſſeſſion of them in deed, but he may follow and take them whether ſoeuer they be chaſed. T. 14. H. 4. T. 44. E. 3.

If a man take beaſtes damage feſant, and in driuing them by the high way to enpound them, the beaſtes enter in the houſe of their poſſeſſour, and he that tooke the beaſts prayd deliuerance, and the poſſeſſour will not them deliuer, a writ of reſcuſſe lyeth. An. 3. Itinere Nott.

A writ de Audiendo & terminando.

REx dilect et fidelibus ſuis S. et VV. ſalutem. Sciatis quod aſsignauimus vos iuſtic' noſtros ad inquirend' per ſacr̃m proborum et legalium hominũ de comitatu S. per quos rei veritas melius ſciri poterit, qui malefactores et pacis nr̃æ perturbatores blada I. ad valenc' x. li. apud N. inuenr̃ vi & armis cepr̃ et aſporr̃. Et alia &c. ad graue &c. et contra pacem &c. ad tranſgreſſ. illam audiendam & terminand' ſecundum legem et conſuetudinem regni noſtri Angliæ. Et ideo vobis mandamus quod ad certos diem et locum, quos ad hoc prouideritis præmiſſa expleat̃ in forma præd', facturi inde ſecundum quod ad Iuſtic' pertinet in hac parte, ſaluis nobis amerciamenr̃ & alijs ad nos inde ſpectantibus: mandamus enim vic' noſtro com̃ prædict̃, quod ad certos diem et locum quos &c. venire faciat coram

vosbi

vobis tot et tales probos et legales homines de com prædicto per quos rei veritas melius sciri poterit et inquiri. In cuius rei testimonium has literas nostras fieri fecimus patentes. Teste &c.

This writ lieth in nature of a writ of trespas & lieth where any affray or trespas is made to any man against the peace of our soueraigne lord the king, the which affray or trespas is haſtily to be redressed and amended, or otherwise there shalbe great hurt of peace or dispaire of the life of ỹ same man, then he which is in such maner affraied or trespassed, shal haue ỹ said writ, but he shal come to the king & to his counsell & shew in a bill the maner of the affraye. And if he se that it be to do, he shall graunt to the partie the said writ directed to the shirif of the same countie, that he cause to come before the Iustices assigned, to heare and determine this affray, or trespas, tot et tal' probos, &c. These which shall trye such affrayes and trespasses. And also the Iustices assigned to heare and determine these affrayes or trespasses, shall haue a commission open, in which shall be conteined what they haue to do, and what shall be their power. And knowe ye, that the writ which shall go to the shirifes is such.

REx vic. salutem. Assignauimus dilectos &c. R. & VV. tibi scire facias quod venire facias coram eis tot & tales &c. de comitatu tuo, per quos &c. omnes illos quod &c. et quorum idem R. & VV. tibi scire fac' si prædictus I. fec. & tunc pone &c. quod fuit &c. Et habeas &c. Teste &c.

And

And note that these writs shall not be granted, but by the king & none hath power to heare and determine such affrayes but the kings Justices, & serieants which be sworn to the king, and that is giuen in the statute of Westminster. 3. Cap. 39. which beginneth Breue de transgressione &c.

A writ of Errore corrigendo.

REx Maiori & vic' Lond' salutem. Quia in recordo & processu ac etiam in redditione iudicij loquel' quæ fuit in curia nostra ciuitatis prædictæ coram vobis præfat' vic' sine breui nostro inter A. & B. de quadam transgr' eidē A. per præfat' B. illat' vt dic' error interuenit manifestus sicut ex querela eiusdem B. accepimus. Nos errorem si quis fuerit, modo debito corrigi & partibus prædict' plenam & celerem iusticiam fieri volentes in hac parte, vobis præcipimus, quod recordum & processum loquelę prædictæ coram vobis in pleno hustingo nostro ciuitat' prædictæ venire, eaque in præsentia partium prædictarum per vos super hoc si interesse voluerint præmuniend' recitari, & diligenter examinari, & errorem (si quis interuenerit) in hac parte debito modo corrigi, & partibus prædictis plenam & celerem iusticiam inde fieri fac' prout de iure et secundum consuetudinem ciuitatis prædict' fuerit faciend' &c. Vel sic, vos præfat' vic' predict' execuc' p securitatem coram vobis inueniend' vel faciend' ad respondend' eidem B. &c. et interim supersedeatis &c.

THis writ lyeth in case where false iudgement is giuen in the common banke before Justices assigned for to take assises, or before the Maior and shirifes of London, or in

in any other towne franchised, then he against whome the iudgement is giuen shall haue this writ directed to the Iustices or other ministers before whome the iudgement was giuen. And if false iudgement be giuen in London, then shalbe made as before saide in the writ of false iudgement, that they make the record and proces of iudgement to come before the Iustices of the kings bench. And also that they cause to warne the partie, which recouered, to be afore the same iudges of the kings bench to pursue forth in his plee, as the kings court shall awarde. And know ye that when the record and processe are come before the Iustices aforesaide, they shal correct and amend the iudgement if that right may be made the parties. And knowe ye: that a writ may not be mainteined, but if the iudgemēt be of record, for if the iudgement be giuen in court baron, countie, or in hundreth, which is not of record, then the partie shall haue a writ of Faux iudgement, and not a writ of Error. And if any be impleaded before Iustices, and the partie take exception before his aduersarie which exception the Iustices will not allowe, then the partie ought to do as is ordeined by the statute of Westminster. 2. Cap. 13. which beginneth, Cum quis implacitatus &c. that is to saye, that the partie shal write his exception and praye one of the Iustices to put his seale to the bill, and when his bill is sealed he shal go to the Chauncerie of our soueraigne lorde the king, and put vp the bill to the counsell.

And

And then the king shall make the whole recorde to come before him. And if the said exception be not found in the record, then shall be commaunded to the saide Justices, that he be afore the king at a certeine day, at which day, if he come and may not denye his seale, then shall be commaunded to him that he go forth to the iudgement, according to the saide exception. And knowe ye, that the Register giueth a writ of Error, of faux iudgement giuen before the Shirife and his Coroners in countie, or in a writ of Post disseisin, and shall be redressed in the kings bench. And in the same manner it may be in a writ of Reddisseisin, and the cause may be, for that, that these writs of Reddisseisin, and Post disseisin are of record, for they shall be inrolled in the Chaunceric and the transcript of them shall be put in the Eschequer in the ende of the yeare. As it appeareth by the Statute of Westminster 2. Cap. 8. in the ende which beginneth, Cum per placitum motum. And knowe ye, that a writ of false iudgement shall be returned before the Justices of the common bank. But a writ of Errour shall be returned before the Justices of the kings bench. And knowe ye, that if errour be made in the Eschequer, it shall be redressed by the Chauncellier and treasorer, as it appeareth by the Statute of Edward the third. Anno 31. Cap. 12.

Assise brought against the gardeine of a chappell of the kings graunt. And the plaint

was

was of land and rent, and hanging the assise, the gardeine resigned to the king, and he gaue that to one I. S. and the assise passed for the pleintife, and I. S. was put out, & brought a writ of Errour as successour, & assigned for errour that his predecessour was not named gardeine, and that the king was seised hanging the assise, and it was awarded, that the writ lyeth for him, & the iudgement reuersed. The same law is of a Prebendarter. But he that purchaseth, hanging the writ against his feoffor, he shall not haue a writ of Error, for that, that he commeth to that by his owne deede, and not by course of the lawe. T. 15. E. 3.

If a Quare impedit or trespas be brought against many, and one confesse the action, or plede so that he is attainted, he shal not haue a writ of Error, vntill that matter be determined against these other, for the record may not be remoued before that all the matter be determined, and after that, he that confesseth the action may haue a writ of Errour. Pa. 34. H. 6.

If a writ of Dett be brought against two by one ioynt Præcipe, and the proces is by seuerall Precepts, that is Error. Pa. 7. H. 6.

If the tenant in especiall taile hath issue a daughter, and lose by erronious proces & after hath issue a sonne by another woman, the daughter shall haue a writ of Error, & not the sonne. For that, that shee is heire to the especiall taile, and the sonne is heire at the common law. Pa. 7. H. 6.

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If erronious iudgement be giuen in the kings bench the same terme, it may be reuersed by writ of Error in the same banke, and the rolle shal be amended: for that, that all times the same terme the record is in the Iustices, and the roll is but their remẽbrance P.7.H.6.

If a recouerie be tailed against the tenant in taile, for terme of life, he in the reuertion shall haue a writ of Error, and reuerse that by the comon law so that the statute is not but in affirmance of the common law. The statute is Anno 9. Richardi secundi Cap. 3. H.21.H.6.

And know ye that there is a diuersitie betwixt a writ of Error and a writ of Faux iudgement: for that that faux iudgement is not of record, vntil such time that it be heard. And if the writ by which it is remoued be abated, it is come without warrant. Then it shall continue before the suitors, for it is as no writ. But otherwise is in a writ of Error, for that was a record before. And a record may be brought in the kings bench by a Iudge of the common place without a writ but these suitors may not without writ. Pa.7.H.6.

And a writ of Error lyeth all times against him, that is partie or priuie, notwithstanding that he be not tenant: for that, that the error ought to be tried by the record. But in false iudgement the writ shall be all times against the tenant of the lande notwithstanding that he be a stranger to the

iudgement, for that, that these errors shalbe tried by auerrement, and not by the recorde: for that, that it is not a Recorde, whych auerrement none shal haue, but the tenant of the land. M. 18. E. 3.

¶A writ de Conspiratione.

REx Vicec' salutem, Si A. fecerit &c. tunc pone &c. A. C. ostens. quare in conspiratione inter eos apud R. præhabita ipsum A. de quibusdam latrocinijs, & alijs transgressionibus per ipsum, contra pacem nostrã apud W. in com̃ S. indictarent, & ipsum A. occasione prædicta apud S. capt̃ & in prisona nostra detent̃ quousq; in curia nostra coram dilectis & fidelibus R. & VV. Iustic' nostris ad gaolam nostram apud S. deliberandum assigñ inde, secundum legem & consuetudinem regni nostri Anglię acquietatus fuisset, falsẽ & malicioſẽ procurauerunt ad graue dampnum ipsius A. & contra formam prouisionis in huiusmodi casu prouisæ. Et habeas &c. Teste &c.

This writ lyeth in case where many men are confedered together, by othe, couenant or by other communication, that euery one shall helpe other, for to distroy, indict, kyll, or cause to appeal any man, then he that is in such maner appealed or indicted by such conspirators, & be acquite by the countrey, hee may haue the said writ against the said conspirators, as it appeareth by the statute De Conspiratoribus, made in the time of king E. sonne of king H. iii. 34. And that the Iustices assigned to heare and determyne plee of trespas or of felony hath power to enquyre

of ſuch conſpiratoꝛs. And the pꝛoces is Attachment and diſtreſſe vntil they come. And that a ꝛwꝛit of Conſpiracie lyeth not againſt theſe indictoꝛs, As it appeareth by the ſtatut of Weſtm 2. cap. 12. which begynneth. Quia multi per malitiã &c. which will ꝓ a man ſhal not haue a ꝛwꝛit of Conſpiracie of no appeale which ſhalbe determined beꝼoꝛe Juſtyces which are of recoꝛde, ꝼoꝛ it ſhalbe enquired of thabbettoꝛs beꝼoꝛe them ſelfe. And if any be found abbettoꝛ, he ſhal haue a ꝛwꝛit Judicial againſt theſe abbettoꝛs, the which is gꝛeuen in place of a conſpiracie. And alſo a man may haue a ꝛwꝛit of Conſpiracie where he is indicted ꝛwythin a Citie, Boꝛough, oꝛ other toꝛwne of any act oꝛ dꝛede made within the place where they haue Coꝛoners ꝛwythin their fraunchiſe, when he ſhalbe acquited aꝼoꝛe the Maioꝛ & the Bailifes of the toꝛwne, and that ſhalbe ſufficient to recoꝛd the delyuerance, if he be another time peached of the ſame felony in the kings Court. And that euery ſuch indictment of the act made within the toꝛwne, the Maioꝛ and the Bailifes may delyuer him from the gaole, and alſo where a felon is mainpꝛiſed within the ſame Citie oꝛ boꝛough: but if a felon be indicted out of the fraunchiſe, and after is taken within the fraunchiſe, the Maioꝛ and the Bailifes may not haue the conuſance ꝛwithout lycence of the kinges Juſtices, which are aſſigned by ꝛwꝛit to deliuer the gaole of the ſame county, but of them ſelfes they may not &c. And the Juſtices aſſigned to heare & determine pleas

of

of Treſpas and of felony, hath power to enquire of ſuch conſpiratorꝛs, & the prꝛoces is vt ſupra.

If a man conſpire to indict another, & after the conſpiratoꝛ is ſwoꝛne in the enqueſt to prꝛeſent foꝛ the king, and hee doth enfourme his feloꝛwes, that the ſaid I. S. hath made ſuch a felony, and afoꝛe that the verdict bee gæuen he is put out of the panel, a ẅꝛit of Conſpiracie lyeth againſt him, but if he had bene diſcharged after verdict, he had ben diſcharged of the conſpiracie, foꝛ that, that the laẅ intendeth that all that ẅas made afoꝛe ẅas laẅfully made, foꝛ that, that it is excuſed by his othe. ℣. 20. H. 6.

I. and B. by falſe conſpiracy betẅixt them made, prꝛocured certaine people to indict C. of the death of one D. by foꝛce of ẅhich hee ẅas indicted & arraigned of the death of D. and he knoẅledged and iuſtified, by foꝛce of ẅhich he ẅent quite by iudgement, in thys caſe C. ſhall not haue a ẅꝛit of Conſpiracy, foꝛ that, that D. knoẅledged the felonie and of that ẅas acquited by foꝛce of the laẅ, as of a thinge ẅhich ẅas not felonie by the laẅ, and it ẅas not to I. and B. to knoẅledge ẅhether it ẅas felonie oꝛ no. An. 22. E. 3. Lib. Aſſ.

If one prꝛocure dyuers people to endict me, and after he that prꝛocured hath a Commiſſion, and afoꝛe him I am indicted: I ſhall haue a ẅꝛit of Conſpiracie againſt hym, and hys Commiſſyon ſhall not excuſe hym of the ẅꝛonge made befoꝛe, and ſo is it if

a man be ſworne for to enforme thenqueſt, yͤis other ſhal not excuſe him. An 27. E. 3. Lib. Aſſ.

¶ A writ de Compoto.

REx Vic' ſalutem. Præcipe A. quod iuſte &c. reddat B. rationabile compotum ſuum de tempore quo fuit Balliuus ſuus in C. & receptor denariorum ipſius B. vt dic'. Et niſi fecerit, & prędictus B. fecerit te ſecur' &c. tunc ſummoñ &c. prædictum B. quód ſit &c. oſtenſurus quare non fecerit &c. & habeas &c. Teſte &c

THis writ of Accompt lyeth in caſe where any Bailife, chamberlaine, or receyuer, which ought to yelde hys accompt, will not accompt yelde, then he to whom the compt ought to be geeuen ſhall haue the ſaid writ. And the proces is Summons and diſtreſſe, and for default of diſtreſſe iij. Capias & an Exigent, which ſhalbe proclaymed in fyue Counties. And know ye, that by the ſtatut of Weſtm 2. cap. 11. which begynneth, De ſeruientibus, Balliuis &c that the Bailife render accompt, & if he be found in arrerages, theſe Auditours which are to him aſſigned hath power to commit him or delyuer hym to the next gaole, and there to abyde vnder good keeping, vntill hee make gree, but if hee bee ſued, and in the ſuit outlawed whereby hee is taken and put in priſon in the gaole, then he is repleuiſable. And let the Shirif, Bailife, or Gardein of the gaole, take good hęde that he be not let to mainprife without writ eſpe-

especially to him directed vpon the said matter, or without the kings lycence, that if hee do, he shall yelde to the Lord his damages, and that wil the statut aforesaid. And know ye, that executors of executors shall haue an action of debt, of accompt of goodes taken of the first testatour in the same maner as hee should haue if he were in full life. And know ye, that the same executors shal aunswere of so much as they haue recouered of the goodes of the first testator, as the first executors if they were on liue. And that will the statute of Ed. 3. Añ. 15. De prouisor' victualium ca. 5. And know ye, that by the statut of west. 2. cap. 23. executors shall haue a writ of Accompt, and the same action and proces as the testator should haue had if he were on lyue. And also by the statute of Ed. the 3. Añ 4. cap. 8. executors shall haue an action of trespas made to their testator, of goods and cattels of the testator taken away in the life of the testator, for to recouer damages against the trespassor in the same maner, as these to whom they are executors should haue if they were on lyue. And also by the statute of Marleb. cap. 17. which begynneth. Prouisum est etiam &c. if the Gardeine in socage make wast, the heire when he commeth to his full age shall haue a writ of Accompt against the gardeine, in this maner. Si A. fecerit &c. tunc sum̃ B. quód sit &c. ostens. quare cum de communi consilio Regni nostri Angliæ prouisum sit, quód custod' terrarum & tenementorũ quæ tenentur in socagio, hæred' terrar' & tenement̃, cúm ad plenam

etatem perueniunt reddant rationabile compotum ſuum de exitibus terrarum & tenementorum prouenient de tempore quo cuſtodiam illam habuerunt ratione minoris ætatis hered' prędictorum: idem B. præfat' A. rationabile compotum ſuum de exitibus prouenient de terris & tenementis ipſius A. in N. quæ tenetur in ſocagio, & quorum cuſtod' idem B. habuit dum præfat' A. infra ætatem fuit, reddere contradic', vt dic' &c. Teſte &c. And know ye, that if the plee be in countie by a writ of accompt, the partie plaintife may remoue the plee into the common bank by the Pone, as in a Repleuin. And alſo it may be remoued at the ſuit of the defendant, but not without good cauſe. And it is to know, that in the Eſchequer at the ſuite of the Citizens of London, it was awarded that there where a man impleadeth another by writ of Accompt, or by plaint after the vſage, and Auditors be aſſigned by the Court, the partie ſhal not haue a writ of Ex parte talis, but there where the Lord aſſigneth auditors, then the partie ſhal haue a writ of Ex parte talis.

The writ was brought againſt a woman, and it was challenged for that, that there is no ſuch fourme in the Chauncerie, and notwithſtandinge it was awarded good. M. 9. H. 6.

The writ was tempore quo fuit Balliuus ſuus in C. and the writ was challenged for that, that there is two C. and one without addition, & the writ awarded good. H. 44. E. 3.

The writ was tempore quo fuit Balliuus ſui prædeceſſoris, & was challenged for that, that

at

at the common law he had no action, and the ſtatut helpes him not, but the defēdant durſt not demurre in law. H.31.E.3.

In a writ of Accompt againſt a gardeine in ſocage, it was not ſhewed by the writ, ne by the declaration that he is next friend, for the which the writ was challenged and not allowed. M.22.E.3.

In accompt of x.li. by the handes of A. B. the defendant ſaid, that he made a dēde to the plaintife and to the ſame A.B. which teſtifyeth the receipt, iudgement wythout ſhewing the dēde, this is a good plēa in diſcharge of accompt, and not in barre. Añ 1. H.6.

In accompt of the receipt of C.li. the defendant ſaid that accord was taken betwixt the plaintife & the defendāt by their frends, that the defendant in full ſatiſfaction ſhall make to the plaintife an obligation of the ſaid C.li. for all debtes, detinues & encreaſements, that to ỹ ſaid plaintife may encreaſe by reaſon of the receipt &c. And that was holden a good barre. Añ 22.H.7.

It is a good plēa for the defendant to ſay, that he hath accompted afore the plaintyfe ſelfe at ſuch a place. P.4.E.3.

In accompt againſt one as Receyuor, the defendaunt ſaid that the plaintife deliuered the money to him, and that he ſhould go to Lumbarde for to make exchaunge and to receyue letters of exchaunge, by force of whych hee receyued the letters, and theſe deliuered to the plaintife, without that hee

was

was his Receyuor in any other maner, this was holden a good barre. H. 5. H. 5.

¶ These Plees following, be in discharge of Accompt.

In Accompt the defendant said, that after the receipt at N. the money was robbed from hym by certeine felons, & that is a good plee in discharge of accompt. M. 9. E. 4.

In Accompt the defendant shall say, that after the receipt that the plaintife graunted to him, that he may receyue the said money in the name of payment of another summe which he ought to the defendant. H. 12. H. 4

In a writ of accompt it was supposed that the defendant hath receyued CC. li. the defendant said, as to a C. li. you your selfe receyued the said C. li. by a deede that here is, which testifieth the same receit, & that was holden no barre, but afore Auditors the plee shalbe allowed. H. 4. E. 3.

If Auditors be assigned, and the parties be at issue afore them, the Auditors shall bring the Recorde to the Justices of the common place, and recorde all that, that was made afore them. H. 12. H. 6.

If a man accompt afore the plaintife selfe, he may not award him to prison, for he may not be his owne iudge, by which he shalbe awarded to accompt of new. M. 22. E. 3.

If a man be found in arrerages vpon hys accompt, and the Auditors suffer him to go at large, at another time after they may not awarde him to prison. H. 17. H. 6.

If

If two executors bee, and the one receyue money due to the testator, his coexecutor shal not haue an action of Accompt against him for that money. The same law is of two Marchants which hath goodes in common. T.11.H.4.P.14.E.3.

But if two haue a warde in common, & the one take all the profites, the other shall haue a writ of Accompt, and recouer the halfe. P. 45.E.3.

Know ye, that a writ of Accompt lieth not against an infant, for he hath no discretion. M.9.H.6.

¶ A writ de Ex parte talis.

REx Vic', Thesaur' & Baron' suis de scaccario salutem. Ex parte VV. capt' & detent' in gaola nostra de N. pro arr' compoti sui, quibus I. de C. ipsum asserit sibi tener' de tempore quo fuit Balliuus suus in G, nobis est ostens', qd' cùm Auditores compoti pred' ipsum VV. sup eod' compoto iniustè grauauer' onerand' ipsũ de receptis, quæ non recepit, & non allocant' ei expensas aut liberationes rationabiles, & quia pref. vv. iniuriari nolumus in hac parte, vobis mandamus quatenus manucapc' sufficient' prefat' VV. capiat' in forma prædicta, & ipsum á prisona predicta deliberari fac', put de iure & secũdum formam statuti fuit faciend', Mand' tamen custodi prison' prædict' quód ad certos diem & locum quos ei scire fac', venire faciat prædictum vv, cum rotulis & tal', per quos compotum suum prædicto A. reddidit ad faciend' inde & recipiend' in præmissis, quod de iure & secundum formam statuti prædicti iusticia sua debet. Et quód prædictus

VV.

VV. ſ gaola prædicta, interim deliberari facias. Teſte &c.

¶A writ of Dette.

REx Vic' ſalutem. Præcipe A. qd' reddat B. x. libras quas ei debet & iniuſtè detinet vt dic', Et niſi fecerit te ſecur' de &c. tunc ſum̃ &c. prædictum A. quòd ſit &c. oſtenſ. quare non fecerit, & habeas ibi ſum̃, & hoc breue. Teſte &c.

THis writ lyeth in caſe where any ſumme of money is due to a man by reaſon of any loane, or of any other contract to be paied at a certeine day, or if any be bound to any other to pay a certaine ſumme of money, at a certaine day, at which day he payeth not, nor will not pay, then he to whom the det is due ſhall haue the ſaid writ. And the proces in this writ is Summons, Attachment, and diſtres, and for default of diſtres iij. Capias and an Exigent, proclaimed in v. Counties.

And know ye, that if a writ of Det, treſpas or accompt, be brought againſt an Archbiſhop, Earle, or Baron, that are Lordes of the Parlyament, no proces of vtlawrie lyeth againſt them, but all times diſtres. And the cauſe is for that, that it is ſuppoſed that they haue ſufficient whereof they may be diſtrayned. And know ye, that a writte of Dette may be pleaded in Countie, if the det amount not to xl. s. As it appeareth by the ſtatut of Glo' cap. 8. which beginneth. Purview eſt enſement, que nul Vic' &c. And if the det be of xl. s. or more, then it ſhalbe pleaded in the common banke afore the Juſtices by writ.

writ. And know ye, that if a contract or couenant bee made to executors of a det by reason of goods sold, which were to the testator to pay at a certaine day, which day is past, and he bringeth a writ of Det, the writ shal say, Quos ei iniuste detinet vt dic', & non debet, and the cause is, for that, that the debet supposeth property to the executors, and the executors may not haue propertie of thinges which were.

a contract or couenant to an executors

Know ye, that sometymes a man shalbee charged of a contract made by his wife, baylife, seruant, or other such persons. As if my Bailife buy sheepe, or other such thing to my vse, I shal aunswere for that det, & ỹ plaintife shal not shew in his declaration that the bailife hath warrant to buy for me, but for that, that they come to my vse I shalbe charged. E. 3. R. 2. But after Newton, if my seruant or wife buy certaine things, though they come to my vse afterward, I shall not be charged, but if he buy to my vse, & ioine the buying to my vse at ỹ time of the contract made, then I shalbe charged if it come to my vse. Quære of this diuersitie. H. 20. H. 6.

But if a wyfe buy in open Market, the husbande shall not be charged for that, if it come not to the vse of the husband, for it may be that it shalbe charge to the husband, & the husbande shall not be charged of a contract made by the wife in such maner: But if I commaunde my wife to buy thinges necessarie &c. I shalbe bound by that commaundement, but if my wife buy thinges to keepe

my

my houſholde, as bread, & I haue no knowledge of that, though it be ſpent in my houſe, I ſhall not bee charged for them. By Fineux chiefe Iuſtice. T.14.H.7.

In Det, the plaintife declareth vpon a contract, that is to ſay, if the plaintife take the the daughter of the defendant to his wyfe, that the defendant ſhall geeue to him xx.li. and the plaintife ſaid that hee tooke to wyfe the daughter of the defendant &c. ¶ Finch. he demaundeth his dett becauſe of a contract which toucheth matrimonie, iudgement if the Court will hold plee, and not allowed &c. H.14.E.3.

Det agaynſt two by one Præcipe vpon an obligation, by which theſe two were bound ioyntly, and euery one ſeuerally in the whole and the one come by the Capias, and the other made default, & the plaintife declared againſt him that came. And Finch. Iuſtice ſaid, that the plaintife vpon thys obligation, myght haue demaunded this det againſt them ioyntly or ſeuerally at his election, & by the maner that hee hath now taken his writ, the one ſhall not aunſwere without the other, for which cauſe he that commeth ſhal haue Idem dies by mainprize. H.48.E.3.

In a writ of Dette, the plaintife declared that the defendant bought of hym certayne beaſtes & other thinges to the value &c. And the defendant ſaid, that the plaintife had nought in the thinges ſold, but as executor to one I. the which I. made the plaintif and one W. as executors, the which W. is not named

named in this writ, iudgement of the writ, and for that, that the plaintife hath declared of a contract made betwixt them, so that the defendant is become dettor to the plaintife the writ was awarded good. P.38.E.3.

Know ye, that it is said in a writ of waste &c. that if a woman being bound in an obligation take a husband, the husband shalbee charged of the det during the life of his wife, and after her death he shalbe discharged, except the iudgement be geeuen against him in the life of his wife. M.49.E.4.

Note ye, that it is said, if a man be bound to a woman sole, and the wife taketh a husband, and the day comprised within the obligation passeth during the mariage, if the husband dye without releasing, or acquiting the obligor, the wife shall haue an action of Det vpon that obligation after the death of the husband. Quære if the executors obtaine the obligation, if they shall haue the said obligation. T.12.R.2.

¶ A writ de Catallis reddendis.

REx Vicec' salutem. Præcipe A. &c. quód reddat B. catalla ad valenc' x. li. quę ei iniustè detinet vt dic', & nisi fecerit, & prędictus B. fecerit te secur de clam̃ suo pros. tunc sum̃ &c.

This writ lyeth, where any goodes are deliuered to any man to keepe vnto a certain day, at which day he commeth and demaundeth his goodes, and the other wythholdeth them, then he shall haue this writ. And the proces is as in a writ of Accompt. And that is

is geeuen by the new statutes of E. 3. An. 25. De prouisor' victualium cap. 17. that is to say, Summons, Attachment, & distres, proces of vtlawrie, and these proces is geuen to in Detinue of goods, as in a writ of accompt, vt patet supra. And it is to know, ꝑ in a writ of Detinue there shal not be said, quę ei debet, Ne in a writ of Dette. If executors aske of executors goodes or dets, the writ shalbee al times que iniuste detinet. And afore the Justices of the banke, Quos ei debet & iniuste detinet, except it bee of goodes, then the writ shalbee, Que iniuste ei detinet, tantum. And if the det be demaunded afore the Justices in Eire, the writ shalbe, quos ei debet, tantum. And if it bee of goodes, que iniuste detinet, tantum. And if the plee be of Det or Detinue, amounting to the summe of xl. s. or aboue, and is pleaded in Countie or Court baron without writ, the partie shall not haue a writ of false Judgement, ne a writ of Executione iuditij, except to the courts of Cities, or in other places that hath iurisdiction by custome. And also if the plee of det be moued in countie, that amounteth to the summe of xl. s. or more, the partie defendant may haue a Supersedeas directed to the Shirife, that hee cease in the plee. And note ye, that a man may haue a writ of Pone, & Recordare in these writtes, as in a writ of Accompt. And also a man may haue a Supersedeas directed to the Baylifes of any court, if they holde plee of dette, or of goodes, that amounteth to xl. s. or aboue. And also in many other cases tou-

touching dette or gwdes, as it appeareth by the Register.

And note ye, that certaine proces is geuen agaynst executors, and delayes put out in such pleas by the statute of E.3. An 9.cap.3.

If a man dye intestate, and the Ordinarie make deputie the most next frend of the dead for to mynister his gwdes, these deputyes shall haue an action to demaunde dettes due to the deade person, as executors shall, and aunswere in the kinges court to other, to whom the saide dead person was bounde in obligation, in lyke maner as executour shall aunswere, and are accomptable to the Ordinaries as executors are. And 31.E.3. cap.11. And also by Westm 2.ca.16.which beginneth, Cum post mortem &c. the Ordinarie shall aunswere of the dette, in whych the dead was bounden as farre as the gwds suffyseth, in lyke manner as executours ihould if the dead had made his executours. And in case that the Ordinarie make hys executours and dye, afore that these dettes whych the deade ought bee payed, then these to whom the said dette was due, shall haue a writ of Detinue agaynst the executours of the Ordinarie. Anno 11.E.3. And in Anno 15.Ed.3. one Robert Pykeryng brought such a writ against the executours of the Ordinarie.

Note of what habyliments & possessions of gwdes, a man shall be charged.

If I make a writing sealed, and that deliuered to I.S. vpon certain conditions to be per-

performed, and then to delyuer to R. N. and R. N. obtaine the deede, the conditions not performed, I shall haue a writ of Detinue against I. S. M. 9. H. 6.

If my father deliuer to R. a deede of feoffement to delyuer to him and to his heires, & one I obtaine the deede, I shall not haue action against I. if I haue not the land, for if a straũger haue the land, the deede belongeth not to me, for it belongeth to the executors. H. 9. H. 7.

But if I be enfeoffed by deede with a warrant, and after I enfeoffe another in fee, and binde me and myne heire to warrant and die, if any haue the deede by which I am enfeffed my heire shal haue a writ of Detinue, and so if my father be disseised and dye, I shal haue a writ of Detinue, though that I haue not the land. And of Charters taken out of my possession my executors shall not haue action of Detinue. H. 6. H. 4.

A deede or any other thing delyuered to a Monke, vpon condition to redelyuer, a man shal not haue an action against the Abbot & his Monke, for the Monke may not charge the Abbot against his will, but of a deliuery made to a Monke to delyuer ouer to the Abbot vpon a condition &c. if the Abbot performe that, then he shall haue the thinge for euer, now the Abbot shalbee charged alone, without naming the Monke with him T. 1. H. 4.

The same law is, of a delyuerie made to the husbande & to the wife, the writ shalbee brought

brought against the husbād alone, otherwise the writ shal abate. H. 38. E. 3.

But if a woman come to a thing as executrix, which woman taketh a husbande, now ẏ action may be brought against the husband & the wife iointly. T. 39. E. 3.

And if the wife haue coexecutor with her it is no plee for her and her husband, to say, that her first husband made his executors, we the said husband and wife, and one I. which is in ful life not named &c. for the possession chargeth him. T. 41. E. 3.

Note ye, that a man shall haue a writte of Detinue, against the husband & his wife of a deliuery made to the wife, whē she was sole afore the mariage. H. 43. E. 3.

In Detinue of Charters, the tenant may plede a deliuerie in another County, and the reason is, for that, that he may not wage his law. P. 9. H. 6.

A man may not wage his law in the Detinue of Charters. P. 8. E. 4.

But in Detinue of xx. quarters of wheate he may wage his law. P. 6. E. 4.

And if two writtes be brought by diuers plaintifes against the defendant of any thing he may pray that they may interpleade: as if two bring seueral writs of Detinue against one of one obligation, & euery one declare a seuerall deliuery made by them, in this case they shal interplede, notwithstanding the declaring of seuerall deliueries, for that, that it is not trauersable, but conueyance to the action. P. 3. & Pa. 7. H. 6.

If two writs be brought against one man of one thing, & the one plaintif declare of one deliuery in the county of S. & the other declare of a deliuery in ꝑ county of W. In this case they shal not interpleade, for it may not be intended one deliuery of one thing, and the defendant shal aunswere to both the playntifes. Ass 14. H.6.

But if the defendant confesse the action of one of these plaintifs: the other shal haue his remedy by his action, and they shall not interplede. T.8. E.3.

And if the parties be awarded to enterplede, he that hath ꝑ writ of elder date ought to declare first. M.3. H.6.

Note that when the defendant in a writ of detinue prayeth garnishment, he is out of the court maintenant for to pleade any plee, but hath day in court to deliuer that, that the plaintyfe demaundeth, to him, to whom the court awarded. M.12. H.4.

If I and another deliuer a thing to keepe and to deliuer to vs, or to the one of vs, in an action brought by one of vs, it was sayde, that the deliuerie was in maner voide, for it is in no certaine to whom it shalbe deliuered, but admitte, that the action was brought by the one of vs, Quære, If the garnysher shall haue the plee in abatement of the writ for to shew the matter, in so much that the defendant hath admitted the writ good. And the opinion was that the writ brought by the one shal abate. H.12. H.4.

¶A writ de Catallis captis nomine districtionis.

THis writ de Catallis nomine districtionis captis reddendis, may not be maintained in no place but within a borough, or within a house for rent goinge out of the same house where a man may take the doores, windowes or gates.

¶A writ de Cartis reddendis.

REx vic' salutē. Precipe A. q̄ &c. reddat B. quandam cistam cum cartis, scriptis, et alijs munimentis ac diuersis cartis, et bonis in eadē cista contentis sub secur' ipsius B. clausam quam &c.

REx vic' salutem. Precipimus tibi quod A. iusticies quod iuste &c. redd' B. quandam cartam vel duas cartas, vel tres, vel quoddam scriptum oblig. vel quoddam scrip' conuentionale, quam (vel quas) ei iniuste detinet, vt dic', sicut rationabiliter monstrare poterit, q̄ ei reddere debeat. Ne amplius inde clam aud' pro defectu iusticiæ, Teste &c.

THis writ lyeth in case where any writting or Charters of feoffement are deliuered to any man to keepe, and he to whom the writtings were deliuered, wil not them redeliuer, when the other these demaundeth, shal haue this writ. And know ye, that it is conuenient for him to shew the certaintie of these Charters demaūded, or otherwise this writ shal not be maintained. And the proces is somons, attachement, & distres vntill the party come. And no proces of vtlawry lieth in this writ, for that, that it toucheth freeholde. And in plee that toucheth freeholde,

no ꝓces of vtlawrye is geuen, but by the newe statutes of Edwarde the thirde Cap. 23. ꝓces of vtlawrye is geuen in a writ of Dette, Detinue of goods, as in a writt of accompt.

¶A writ of Audita querela.

REx Iustic' suis de banco salutem. Ex graui querela I. accepimus quod cum idem I. nuper coram I de VV. tunc Maiore vill' VV. & V. de S. tunc clerico &c. recognouisset se debe' B. C. li. ad certos terminos in dicta recognitione conten' soluend', ac id̄ A. postmodum per quandam indenturam inter ipsos A. et I. concessit, quòd si prædictus I. solueret prędicto A. singulis annis ad iiij. anni terminos, per æquales portiones quendam redd' xl. s. exeun' de terris & tenementis prædicti I, aut R. fratris eiusdem I. in villa de N. & in suburbio de N. ad totam vitam ipsius A. quod tunc prædicta recognitio C. li. penit̄ cassere', & pro nullo haberetur, prout per alteram partem indenturę prædictæ per dictum A. sigillat', quam idem A. penes se habet (vt asserit) plenius poterit apparere. Et licet prædictus I. dictum reddit̄ xl. s. prefat' A singulis annis ad terminos prædict' æquis portionibus a tempor' recognitionis prædictæ confect' vsque ad festum Paschæ anno tali, bñ & fidelit̄ soluerit, & eundem redditum eidem A. semper hactenus a festo prædict' vsque ad eosd' terminos soluere paratus fuerit, & adhuc existat, prout vijs & modis, quibus conuenit, paratus est edocere idem A. executionem dictarum C. li. de terris & tenementis ipsius I. pretextu recogn̄ prædict' persequitur minus iustè, in ipsius I. non modicum grauamen, & con-

tra

tra vim & effectum indenturæ prædictæ. Et quia eundem I. iniuriari nolumus in hac parte, vobis mãdamus quòd visa altera parte indenturæ prædict', & vocatis coram vobis partibus prædictis, auditisqué hinc inde earum rationibus, vlterius in hac parte fieri faciatis, quod de iure & secundum consuetudinem regni nostri Angliæ fuerit faciendum, Teste &c.

THis writ lieth in case, where a mã is holden to another in a certaine summe of money, by statute marchant, to pay at a certaine day: or otherwise, that he shall forfayt the penaltie of the statute Marchant, within which day, the creansor releaseth to the dettor the same summe, or otherwise by couenant of Indenture betwixt them made, that is to say, that the dettor shall pay to the creansor a lesse summe of money euery yere by little parcels vntil the same summe bee fully contented & payd, and if he do, then the other shal not sue the statute, then notwithstãding the release or indentures, the creansor sueth to the Maior and bailifs for execution of the statute, that is to say, ꝑ the dettor be taken, & put in prison vntil the debt be paide: thẽ he to whom the release or indenture was made, or his next frend, shal come to ꝑ Chaũcellor, & shewe the release to him, then this writ shal be graunted & directed to one of the Iustices of the common banke, and after that he shall haue somons out of the common banke to the shirif in what county so euer that the creansor is in, to cause him to come at a certayne day, at which day if he come not then he shal

be distrained, and if he come not to the distres retourned, the other shall be restored to his lande.

One was taken by a Capias vpon a certificat of a statute marchant, & shewed forth acquitance of the playntife, & praied that hee might be demaunded, and so he was, and appeared not, wherefore the defendant prayed that it be recorded, and to him it was denied for that, that he hath no day in court, wherefore he praied a venire facias, or a scire facias, against the plaintife to aunswere to the dæde & to him it was denied, & it was awarded ỹ he shal sue an Audita querela, or els he shalbe without remedy. M. 13. E. 3.

The writ of Audita querela reherseth howe the recognisee hath released al actions by his dæde, & also that he hath released by indenture vpon certaine conditions ỹ which was fulfilled, & the writ was challenged for that ỹ it reherseth these two titles, where one extinguisheth the whole, wherefore the court awarded that the playntife shal holde him to the one and so he helde him to the release M. 44. E. 3.

Note that it behoueth all tymes that the Audita querela make mentyon of the release, acquitance or defendance, for otherwise the playntife shall not haue a Superisedeas. M. 28. E. 3.

Know ye, that if one Audita querela be challenged, for that, that it doth not accorde to the statute, & the recognisor putteth afore another writ of Audita querela, & praieth that the

the defendant may aunswere to his deede, in this case if the defendant wil not aunswere, nowe when he hath day in court to answere to this ij. writ, then a venire fac. vpon the ij. writt shalbe awarded, & a Supersedias to the shirif, & ẏ is a disaduãtage to the defẽdãt that the first writ is abated. T. 25. E. 3.

¶A writ of Si recognoscat.

REx vic' salutem. Prec' tibi quod si A. recognoscat se debere R. xl. s. sine vlteriore dilatione, tunc ipsum distringas ad prędicẽ debitum eidem R. sine dilatione redd'. Teste &c.

THis writ lyeth, where a man oweth to another a certaine det, & the dettor knoweledgeth afore the shirife in his countye, that he is dettor to such one, then he to whom he is dettor after the recognisaunce made, shall haue the said writ. And by this writ he shal be distrained vntill he hath made gree to the party for the debt. And note that this writ lyeth not, but of money numbred.

¶A writ de Executione facienda.

REx vic' salutem, Monstrauit nobis B. quod cum ipse nuper implacitasset in cõm tuo per breue nostrum A. de debito C. s. & idem A. in pleno cõm illo recognouit se deber̃ prefato B. eandem pecuniã ad cert̃ terminum reddend', tunc termino illo elapso, & eandem pecuniam eidem B. nondum soluit, illam ad querimoniam suã scd̃m recognitionem pręd̃ hucusque habere non fecisti, in ipsius B. dampnum non modicum et grauamen. Et quod idem A. prout iustum fuerit subuenire volumus in hac parte, tibi pręc'

quod si ita est, pecuniam illam de bonis & catallis ipsius A. in balliua tua leuar & illam eid' B. habere fac' sine dilac', ne clam' ad nos ind' perueniat iteratus, Teste &c.

This writ lyeth where a man impleadeth another in county before the shirife, and he that is the dettor maketh there a recognysance before the shirife to pay to the plaintife the same summe at a certayne day, the which day is past and the summe not payd, nor the recognisee will not pay the said summe to the plaintife, then the playntife shall haue the said writ that is called de Executione faciendâ de recogn' facta in com' directed to the shirife commaunding him that he make execution of the same knowledge.

¶ A writ de Secta molendini.

REx vic' salut. Prec' A. quod iust' & sine dilatione fac' sectam ad molēdinum R. de C. quā ad illud facere debet & solet vt dicit. Et nisi predictus B. fecerit &c. tunc sum' &c. ostens. quare non fecerit. Et habeas &c. Teste &c.

This writ de secta molendini (being in the debet & solet) is a writ of right, & it lyeth betwixt straunge persons for such suit with drawen. And if the lord aske suite of his tenant, he may distraine, and aduow the distres to bee reasonable. And that was vsed in the time of E. sonne of king H. & such writ may be made in the county and in the banke, as it appeareth by the Register.

¶ A writ

¶ A writ de quod permittat.

REx vic' ſalutem. Precipe A. quod iuſte &c. et ſine dilatione permittat B. habere com̃ paſturæ in N. de qua C. pater predicti B. cuius heres ipſe eſt, fuit ſeiſitus, vt de feodo tanquam pertinen̄ ad tenemen̄ ſuum in eadem villa die quo obijt, vt dicit. Et niſi &c.

THis writ lieth where a man is diſſeyſed of common of paſture, & the diſſeiſor dothe alien and dieth, and his heire entreth or the diſſeiſee dieth, then the heire of the diſſeiſee, or the diſſeiſee ſelf, ſhal haue the ſaid writ. And note yt that a quod permittat was vſed: habere rationabile eſtouarium in boſco, vel in turbaria & ſimilibus. But in place of this writ is geuen Aſsiſe of nouel diſſeiſin, as it is ſaid in the ſtatute of Weſtm̃ 2. Cap. 25. which begynneth: Quia non eſt aliquod breue &c. For by the ſtatute is ordained: that if any be diſſeyſed of his turbarye, fiſhing, or of any other ſuch like that belongeth to his freeholde for terme of his life at the leaſt, he ſhall haue Aſsiſe of nouel diſſeiſin. And alſo by the ſtatute of Weſt. 2. cap. 24. which beginneth. In quibus caſibus &c. that if any perſon of holy church be diſſeiſed of his common of paſture (ſuing the diſſeiſour) he ſhall haue aſsiſe of Nouel diſſeiſin of common of paſture. And in the ſame maner will, that the ſucceſſor ſhal haue a writ of Quod permittat againſt the diſſeiſor or his heire. But in caſe where they are many cōmoners, which hath common of paſture together by deede or couenant. And that the lorde leaue vpon the cōmon a mill or a backhouſe

houſe. The commoners ſhal not haue aſſiſe of of nouel diſſeiſin, but ſhall bee helped by the cõmon law vpon their couenãt or eſpecialty. And that is geuen by the ſtatute of Weſt. 2. Cap. 46. which beginneth. Cum in ſtatuto &c. in the ende. And note ye that when this writ is in ꝑ debet without the ſolet, & a mã ought to declare of the ſeiſin of his auncеſtor, and ſhal holde his ſuite dereined good, then lyeth battaile or great Aſſiſe. And when the writ is in the debet and the ſolet, and a man ſhall declare of his owne ſeyſin, and not to ſay, to holde his ſuit dereined good, and this writ ſhalbe tried by the inqueſt. And this writ ſhalbe pleaded as a writ of treſpas by attachment and diſtreſſe and not by the grãd Cape or petit Cape. And it is to know that if a free tenant be put out of his common of paſture by the lord, or if the lord hath approued contrary to the ſtatute of Merton Cap. 4. and againſt the ſtatute of Weſtm. 2. Cap. 46. ſo that the tenant hath no ſufficient paſture, he ſhal haue Aſſiſe of Nouel diſſeiſin of common of paſture. And if the paſture bee ſurcharged by one free tenant, they ſhal haue a writ of admeaſurement. But if the tenant ſurcharge the paſture the lorde ſhal not haue a writ of Admeaſurement againſt the tenant, nor the tenant againſt the Lorde, but the lord ſhall haue Aſſiſe of Nouel diſſeiſin de libero tenemẽto, quod dubitatur. And know ye: that a writ of Quod permittat may be pleded in the Countye before the ſhirife and it may be in the debet and ſolet, or in the debet

with=

without the ſolet, according as the demaundant claimeth. And if a man be diſſeiſed of his common of paſture, and the diſſeyſor dyeth and his heire entreth, the diſſeiſee ſhal haue a writ of Quod permittat, and ſhall make mention of the diſſeiſin. And if after the death of the diſſeiſour or his heires, a ſtraunger purchaſour entreth, he ſhal haue a Quod permittat in the debet & ſolet, which ſhal try the right. And if he demaund common of paſture of the ſeiſin of his auncеſtor the day of his death, he ſhall haue a writ of Quod permittat that ſhal make mention of the ſeyſin of his auncеſtor, the which is in nature of Mortð. But if a ſtraunger enter after the death of the diſſeiſour, he ſhall haue againſt the ſtraunger no other writ but the Quod permittat in ꝑ right. And know ye: that a Quod permittat lyeth of common turbary, fiſhing, and of reaſonable eſtouers againſt the diſſeyſors of a diſſeyſin by him or his auncеſtors made to the playntife or his auncеſtours, and in no other degrees. Note yee: that the Quod permittat that is of the nature of the Mortdauncеſter may not be pleded in the county. But ꝑ Quod ꝑmittat ad certū numerum aueriorum may wel be pleded in county, in ꝑ cōmon bank, or in Eire.

In a Qđ ꝑmittat in ꝑ debet & ſolet, of a way of his own ſeiſin, it is cōuenient for ꝑ plaintife to claime ꝑ way in his declaration by preſcriptiō or by deed: for that, ꝑ he claimeth to take ſuch profit in ꝑ ſeuerał of another perſō E. 30. H. 6. Note ye: ꝑ if a mā & his auncеſtors were wont to grinde at my mill wout multure,

ture, and the milner will not suffer him to grinde without multure, wherby the milner taketh multure. In this case a man shall not haue a writ of Quod permittat, but a writte of Trespas. M.41.E.3.

And note ye: ꝑ there is iiij. maners of cõmon (that is to say) Common appendant, cõmon appurtenant, Cõmon in gros, & common per cause de vilinage.

Common appendant: is there, where a man is seised of a manor to which he hath commõ in other seueral appendant to the same manor. And this cõmon may not bee occupyed, but with his ꝓper beastes, & such as doth compester his lande. H.4.H.6. Añ 11.H.6.

And if a man claime common appendant, he ought to claime it by reason of a mesuage, otherwise it is not good. Añ 21.H.6.

And note that a man may haue common of fishing belonging to his house aswel as common of pasture. M.4.E.3.

And know ye, that Commõ appendãt may not be seuered from the landes to which the common is belonging. And if the tenements, to which a common is belonging come in the possessiõ of him ꝑ hath the land, out of which the common is purchased then the common is extinguished in his person. And if the tenements afterwarde be seuered by alienation, as they were afore, then the common is appendant as it was before, after Scot. M.4. E.3. M.5.H.7

Common appurtenant is when a mã prescribeth to haue comon appẽdance to his lãd

with

with al maner of beaſtes, & this cõmon may be made in gros. C. 37. H. 6.

Common in gros, is where a man preſcriueth, that he and his auncеſtors hath had to common in the land beaſts without number, & he may occupy his commõ with what maner beaſtes that he wil, & may take beaſtes of a ſtraunger to gieſt &c. M. 5. H. 7.

Common per cauſe de vſinage, is where the towne of Dale, and the towne of Sale are adioyning, and the Lorde of Dale and his tenants hath vſed to common in the waſt ground of Sale, becauſe of his neighborhead Fi 22. H. 6.

And note ye that to land newly approued, a man ſhal not haue common, but to auncient land hide & gaine. H. 10. E. 3.

If a man graunt to me to common ỹ my beaſtes whereſoeuer his beaſts go, & after he occupieth & manureth C. acres of lãd ẅ his beaſts, & after it happeneth ſo, ỹ he hath no other beaſtes, yet I ſhall haue my common in the ſayde C. acres of lande. But if a man graunt to me to common whereſoeuer his beaſtes goeth (it is ſayde by Martyne) that I ſhal not haue common, but when he commoneth. A. 40. H. 6.

Note ye: that it was ſaid by Fairefax that if one hath a way belonging to his mannor, or to his houſe by preſcriptiõ, this way may not be made in groſſe, for that that none may take profit of that way, except he that hath the houſe, to which the way is belonginge. But a common appurtenant may be made in gros,

gros, & aduowson apendant may be made in gros: for that the people may haue profit of them, notwithstãding that they haue not the lande. But of common of Estouers to be vsed in a house, may not be seuered and be made in gros, nor cõmon apendant, which is by reason of the tenure &c.

A writ de Quo iure.

REx vic' salutẽ, Si A. f: cerit te securũ &c. tunc sum &c. B. q̃ sit corã &c. ostens. quo iurẽ exigit cõmuniam pasturæ in terra ipsius A. in C. sicut idem B. nullã habet cõmuniã in tra ipsius A, nec idem B. seruicia facit, quare cõmuniã in terra A. habere debet, vt dicit. Et habeas ibi, sum & hoc breue, Teste &c.

THis writ lyeth, where a man hath cõmon of pasture in another mans seueral (after the time of memory vnto this present day) then he to whom the seueral belongeth, shall haue the said writ, by which he shalbe charged to answere, by what title he claimeth to haue common of pasture in the seuerall of the plaintife. And note ye: that the lord may not put out the tenant of the cõmon: for if he put him out, he may haue assise against the lord, for that that the tenant was seised of the cõmon after the limitation of assise. But it is conuenient that the lord haue this writ, and this writ is geuen to trie the right. And the proces is in this writ, Somons, attachmẽt, & distresse, vntil the party come, & when the party commeth & pleadeth in the right to the action, and after make default, then shall goe a graũd distresse in place of a petit cape. And

this

this writ shalbe determined by battail, or by grand assise aswel as any other writ of right

And know ye, ỹ this writ lieth for tenant of ỹ ground, but not for him ỹ claimeth common by Herle. In. 2. E. 3.

¶ Quo iure brought by two, thone was nõsuit, and the other was receiued to sue sole, and the defendãt iustified by prescription &c. And therefore he went quite, T. 11. H. 3.

¶ Quo iure may ye brought against seueral tenants. Or if they and their tenants entercommon because of vycynage, or of tyme whereof memorye doth not runne though ỹ the one gain al his land or inclose, yet he shal haue his common with the other, and the other shal haue a writ against him for to haue his common.

¶A writ de admensuratione pasture.

REx vic' salutem. Questus est nobis A. quod B. iniuste superonerauit cõmunem pasturam suam in N. Ita quod in ea plura habet animalia & pecora quam habere debet, & ad ipsum pertinet habend'. Et ideo tibi præcipimus, quod iuste & sine dilatione admẽsurari facias pasturam illam. Ita quod prædictus B. non habeat in ea plura animalia & pecora quam habere debet, & ad ipsum pertinet habend' secundum liberum tenement suum quod habet in eadem villa. Et quod prædictus A. habeat in pastura illa tot animalia et pecora quot haber debet et ad ipsum ptinet habend', ne amplius clamorem aud' pro defectu recti, Teste &c.

THis writte lyeth where there are manye free tenauntes which hath common of pasture

pasture belonging to their freeholde, and one of them surcharge the cõmon, otherwise thẽ he ought, then he that is greeued by this surcharge shall haue this writ. And know ye: that this writ lieth for one of the cõmoners or for al but they shal not haue it against the Lorde. And if one of them bring a writte of Mesurement al these commoners shal be admesured, aswell these that bringeth not the writ, as he that bringeth the writ. And this proces is in this writ, as is ordained in the statute of Westm. 2. cap. 7. which beginneth Custodi de cetef &c, that is to say, Somons, Attachement, & distres peremptory with proclamation made in two counties. And if the party come at the proclamation then the plee shall passe betwixt them. And if he come not at the proclamation, thẽ the mesurement shal be made by his default.

Note ye: that in this writ, it is no plee for the defendant to say, that hanging this writ the demaundant put him out of his common, & of that he hath assise hanging for that, that he is seised of the tenementes, for the which he surcharged the pasture. In 2. E. 2.

If I haue cõmon in a maner because of vicinage, & the lord surcharge that common, I shal haue a writ of mesurement against him: for y, that I am not his tenant. En temps E. 3.

And know ye after Hussey, if there be but two neighbours in a towne, which entercõmoneth in others lande, a writ of Mesurement lieth not betwixt them, for the one may not

not say, that the other hath surcharged his common: for his common is the freehold of the other, and his freehold may not be surcharged. H.19.E.3.

This writ lyeth not against him which hath common apendant, nor against hym y hath common by especialty to beasts without number: But against him which hath common appurtenant, & common by especialty to a certaine number of beasts &c. H.22.E.3 Lib.all.placito 45.

In a writ of Mesurement of pasture, hee declared that where the defendant hath common in a certayne place because of his tenure, and there hath the defendant put moe beastes then hee ought of right, and shewed the number and the surplusage of the beasts, the defendant said, that there is another that hath common in the same place, which is in full life not named in the writ. And by some men it was sayd, that a man shall not haue an Action against one, against whom he hath no cause of action. But by this action al shall be admesured, and it is no preiudice to them, for that, that they haue all that, that right will. H.7.H.6.

A VVrit of secunda superoneratione pasturæ.

REx vicecomiti salutem. Monstrauit nobis A qđ cum ipse breue tibi nostrum nuper detulisset de communi pastura sua in N. admensurand, quam B. iniustè superonerauit, et tu pasturam illam per præceptum nostrum, prout mos est in regno nostro,

admenſuraueris, idem B. paſturam illam poſt admenſurationem præd iterum iniuſtè ſuperonerauit, in ipſius A. dampnum non modicũ et grauamen, et contra formam ſtatuti in huiuſmodi caſu prouiſi, et quia eidem A. iuxta formam eiuſd ſtatuti ſubuenire volumus, vt tenemur, Tibi præcipimus, quód in propria perſona tua ad paſturam illam accedas, et per ſacramẽtum proborum et legalium hominum de balliua tua, p quos rei veritas melius ſcire poterit de ſecunda eiuſdem paſturæ ſuperoneratione, diligenter inquiras: et ſi ſup inquiſitionem illã paſturam prædict' per præfatum B. poſt primam admenſurationem iterum iniuſtè ſuperonerat' inueneris, tunc de auerijs illis in paſtura prædicta vltra debitum numerum poſt primam admenſurationem poſitis, vel de precijs eorundem nobis ad Scaccarium noſtrum reſpondeas, & ſuperonerationem amoueas. Teſte &c.

This writ lieth, where Meſurement hath ben made, and he that firſt ſurcharged the cõmon, another time ſurchargeth it, hee that is ſo greeuen ſhall haue the ſaid writ. And note ye: that this writ is ſometime original, and ſometime iudicial. And in the caſe afore ſaid it is original, & it is a Juſticies not returneable, but that the ſhirife ſhall go in proper perſon to the paſture, and he ſhall make inquirie by lawfull men of his baily wich of the ſuperoneration, and if it be found, the ſhirife ſhall anſwere to the Barons of the Exchequer for beaſts, which were in the paſture ouer and aboue the due number. And when it is iudicial, then it ſhall go out of the common banke to the ſhirife commaunding him

that

that he go to the place where the measurement was made, and inquire in the presence of the parties, of the second surcharge: and if it be found, the inquisition shalbe sent to the Justices of the cõmon bank vnder his seale, and the seales of the Iurors, and after the inquisition returned the Justices shal iudge the parties their damages.

And know ye, that this writ lyeth not but where a measurement hath ben made betwixt the forsaid tenants, for if any purchase the state of one which was partie to the mesurement, he shall not haue this writ of seconde surcharge, for he is not helped by the statute of Wellm 2. cap. 8.

And know ye, that a writ of Measurement may be remoued out of the Countie into the common bank by a Pone, aswell at the suit of the plaintife, as at the suit of the defendant: But it shalbe al times with cause. And then the writ of the second surcharge is iudicial, as is aforesaid.

¶ A writ de Rationabilibus diuisis.

REx Vic' salutem, Præcipimus tibi quod iuste &c. fac' esse rationabiles diuisas inter terram A. in C. et terram S. de R. in D. sicut esse debent & solent: vnde idem A. queritur: quod prædictus S. plus inde trahit ad feodum suum quã ad ipsum pertinet habend'. Ne amplius inde &c. pro defectu iustitiæ. Teste &c.

THis writ lieth in case where there is two Lordes in diuers townes, & their seignories ioyneth together. If any parcel of land

of the one seigniorie hath bene incroched by little parcels after the time of memorie, vnto this present time, then the Lord of whose seigniorie the parcel of land was incroched, shall haue the said writ against the lord that hath incroched. And know ye, that this writ is a Justicies and may be remoued by the Pone out of the county into the common bāk. And this writ hath bene made betwixt dyuers townes and diuers persons, & not other wise. And the proces is, Somons, graund Cape and petite Cape.

A writ of Perambulatione facienda.

REx vicec' salutem. Præcipimus tibi qđ assumptis tecum xij. discretis & legal' militibus de com̄ tuo et in ꝓpria persona tua accedas ad terrā w. de S. in C. et terrā R. de A. in N. et per eor' sacram̄ fieri fac' pambulationē int̄ terr̄ ipsius w. et terr̄ p̄d R. in C. quia prædicti w. & R. posuerunt se coram nobis in perambulationem illam. Et scire facias Iusticiarijs nostris apud westm. tali die, (vel Iusticiar̄ nostris ad primam assisam) sub sigillo tuo, et sigillis quatuor legal' Militum ex illis, qui perambulationi illi interfuerint, ꝑ quas metas et diuisas perambulatio illa facta fuerit. Et habeas ibi nomina Militum, et hoc breue. Teste &c.

THis writ lyeth in case aforesaid, where parcel of land of the one Lord hath bene in such maner incroched by long time past, then by assent of both the lords this writ shall bee purchased. And in this writ is no proces: but the shirife shall take with him the sayd partyes and chiefe men dwellinge in the sayd seigny=

ſeignioꝛie, and go to the ſaide place ẅhere the incrochment ẅas made, and there they ſhall make Perambulation, and oꝛder the ſeignioꝛies as they ẅere in old time, beꝛoꝛe the incrochment. And knoẅ yee, that theſe tẅo ẅꝛits lie not, but ẅhere that incrochment hath bene made from yeare to yeare by little parcels out of time of minde vnto this preſent time. But ẅhere the incrochment hath bene made but of late time, then lyeth the Aſſiſe. And knoẅ yee, that the ẅꝛit of Perambulatione fac' alſoates is made by agreement of the parties betẅene dyuers toẅnes in one Countie. And the parties betẅixt ẅhom the Perambulation ſhall bee made, ſhall come to the Chauncerie and gꝛãt that Perambulation ſhall bee made betẅixt their lands. And the agreement ſhall be inrolled, oꝛ therof a Dedimus poteſtatem may be made. Anno 8. E. 3.

Note yee, that a tenant in ẅoẅer may haue this ẅꝛit. But the Perambulation ſhall bee made betẅixt him in the reuerſion, and the defendant in this ẅꝛit, and not betẅixt the tenant in ẅoẅer & the defendant. Anno 11. H. 3. Itin. Ebꝛum.

A writ de Annuo reddito.

REx vicecomiti ſalutem. Præcipe A. qđ iuſtè &c. reddat B. &c. C. li. quæ ei arretró ſunt de annuo reddit' xx. li. quas ei debet, vt dic'. Et niſi fec' &c. tunc ſum' &c. oſtenſ. quare non fecerit. Et habeas ibi ſum' et hoc breue. Teſte &c.

Aliter in comitatu.

REx vicecomiti ſalutem. Precipimus tibi, quod iuſtitiet A. quod &c. reddat D. de. C. centum ſol, qui ei arctro ſunt de annuo redditu x. li. et vnius robe, quam ei debet, vt dic', et ſicut racionabilit &c. ne amplius &c. p defectu iuſticiæ. Teſte &c.

THis writte lyeth in caſe, where a man graunteth to an other by writtinge anie ſumme of money or rent, to take euery yeare of his cofers, or of his chamber, or of his manor. And after ſuch graunt, that ſumme of money or rent is behinde: then he to whom the rent is graunted, ſhall haue the ſaid writ, and by this writ recouer the ſumme of money or rent that is behind, and his damages. But if the lands or tenements be charged with a Diſtres for ſuch rent behind, then he may diſtraine in the lands or tenements: and if the diſtres be from him reſoyced, then hee ſhall haue aſſile. And knowe ye, that this writ of Annuitie is not to be ſued by executors: but in place of this writt is geuen a writ of Debt, which ſhall be made in the Detiner, and not in the debet: and in the ſame maner ſhall be of wheat, barly, and other ſuch like. And knowe ye, p in this writ e in a writ of det vpon an obligatiõ, e in like caſes where he ought to ſhew eſpecialty in declaration, in ſuch writs it is conuenient, p the name of the plaintif or defendant agree with the ſpecialtie, or otherwiſe the writ ſhal abate, if p partie that challenge. But in a writ of waſt brought by him in the reuerſion, e in a Formedon in the remainder, a man ought not to ſhew eſpecialty alaze p it be demanded by the

partie

partie, though that the name of the plaintif, or the demaundant in the writ be not accordyng to the especialtie, the writ shall not abate, as it appeareth M.41.E.3. in a writ of Waft. And the Proces is Somons, Attachment and Distres infinite.

And note ye, that of all annual rent going out of landes or tenementes, and not of a chamber a man ought to haue this writ.

Note, that if annuity be graunted out of a church in one county, & the grantee is seised of the annuity in an other county, ỹ grantee may chose in which countie he wil bring his writ of annuitie. M.4.H.6. M.13.E.3.

In this writ the declaration was challenged, for that, that the plaintife supposed the seison by the handes of the defendant & hys predecessors, where he was not seised by the handes of the defendant: and not allowed. M. 22.E.3.

The declaration was challenged, for that that it was the yeare of the Incarnation, & not the yeare of the raigne of the king: and not allowed. H.16.E.2.

If annuitie be granted upon condition, the plaintife shall not shew that in his declaration, but he shal make his declaration simple, & the defendant shall not haue aduantage of that, by way of plee in abatement of the declaration, but he shall plead that by way of barre. H.11.E.4.

If a man grant annuity of a gowne, price xx.s. the writ shall be brought of the gowne, price xx.s. without speaking of ỹ xx.s. if the

grauntee will, or he may haue a writ of the xx s. without speaking of the gowne, & in this case the writ shal not abate though that it be not according to the writing. But if the writ agree with ye grant, then the writ shall abate for the noncerteinty: for by the writ ye demaund ought to be certain. H. 3. H. 6.

If I graunt an annuity of xl. s. to one of the kings chapleins, vntil he be promoted by me to a competent benefice: In this case if I profer to him a benefice which is wroth tenn marks, ye which he refuse, that is a good extinguishment of the annuitie: for the benefice shal haue relation to the value of the annuitie, & not to the estate of the parson, to whom it is profered, though that he be a man of great estate. Quod nota. H. 3. H. 6.

If annuitie be graunted vpon condition, that is to say, vntil the grantee be promoted to a benefice, or to giue his counsel &c. And the grauntee brings a writ of annuity of the arrerages, & the grauntor sayeth, that such a day he profered to him a sufficient benefice, or that he demaunded his cousel, & ye grauntee that refused: in this case the grātor shall not aunswere to the arrerages before the tender, for that, that by the tender, the annuitie is determined: and of these arrerages, before the extinguishment, the grauntee is put to his writ of det. If the grauntee haue acquitance of the arrerages before the extinguishment, he shal not plede that in a writ of Annuitie, for he shal haue aduantage to plead that in a writ of det. M. 16. E. 3.

If

If Annuitie be granted out of certein land it is in election of the grauntee to bring aſſiſe or a writ of annuitie. H. 18. E. 2.

In a writ of annuitie if the defendant ſhew acquitance of the arrerages, yet the plaintife ſhal haue iudgement to recouer the annuitie, aſwell as in a writ of Meane, the defendant pleadeth, not diſtreined in his default, the plaintife ſhall recouer the acquitall ſtraight way. M. 30. E. 3.

In a writ of Annuitie againſt one I. and declared that the ſaid I. by a deede that he ſheweth graunted to him one annuitie of xx. ſ. by the yeere, going out of the mannor of Dale, the defendant ſaid, that after the action brought, he hath rendred x. markes of the arrerages of the ſaid annuitie, and ſo hath he abated his writ. And it was holden that that was no plee to diſcharge the writing, except that he ſhewe another writing, as it is vpon an obligation, els it is no diſcharge. H. 22. E. 3.

If a Parſon of a church hath licence of the patron & ordinarie to graunt annuitie, this graunt of Annuitie with ſuch licence ſhall charge his ſucceſſor for euer without any other graunt or confirmation of the patron & ordinarie. And that is as ſtrong in the lawe, as they all had ioyned in graunt, or confirmed the graunt made by the parſon alone. Tamen quere. M. 6. H. 4.

If annuitie be granted to another for his counſell giuen & to be giuen, the grauntee is not bound to go to the graunter, but to giue

his

his counsel where the graunt is. P. 45. H. 6.

¶ If a man graunt to me an Annuitie of xx. s. by yeere paiable at the feaste of saint Michael, & at the Annuntiation of our Ladie, & the deede beareth date the fourth day of Februarie, I shall take the first paiment at the feast of the Annunciation next after the date of the deede, notwithstanding, that the feast of saint Michael be the first day in the deed.

¶ A writ de Consuetudinibus & seruitijs.

REx vicecõ salutem. Precip̃ A. quod iuste &c. faciat B. de C. cons. & recta seruitia sua, quæ ei facere debet de libero tenemento suo, quod de eo tenet in N. vt in redditibus, arf & alijs &c. (vl̃ sic) vt in secta curię & in alijs &c. Et nisi fecerit &c. te secũ, tunc sum̃ &c. ostẽ quare non fecerit. Et habeas &c. Teste &c.

THis writ is a writ of right and wil be determined by battaile, or by great Assise. And lieth where I or mine auncestors after the limitation of Assise was not seised of the customes, or of the seruices of our tenaunt, But afore the limitation we were seised of ꝑ seruices & of the customes of our foreſaid tenant: than for to recouer the saide seruices, I shal haue the said writ. And the proces is somons, graunde Cape, and petit Cape. And it is to know, that this writ may bee pleaded in iij. maners, that is to say, by one affirmatiue, and two negatiues: this affirmatiue is called a writ of customes and seruices. And this writ supposeth alwaies, that the Lorde

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is actor, and the tenaunt defendant. And the Lord by this writ may demaũde against his tenant that holdeth the ground of him without meane, to demaunde rent or suit to courte or fealtie, and such manet of seruices, whereof the Lord, or his auncestors were seised by the hande of the tenaunt, or his auncestors as of rent going out of the same grounde, or in his demeane, as of fee and of right, by reason of which rent the corporall seruice is moũable. And for that some people were wont to declare of the right in their declaration of his owne seison as of fee & of righte. But of other seruices that are not remouable, a man ought not to declare but as of fee, & of right without demeane. And this writ is al wholy in the right: where homage is graunted, and knowledged by the tenant in plee pleading, in which case lieth nether battaile nor great assise, nor in this writ ought the solet neuer to be writtẽ. And know yee, ỳ this writ ought to be pleaded by the same delais, as the Quod permittat, but in this writ of right, is demaũded tenementes in demeane after cultomes & seruices denied. And by the Lorde Gilbert de plesson lieth not the view, that is to say, if the defendor hold not if. tenemẽts in ỳ same towne, whereof the demaundant claimeth diuers seruices to him as well as in the Quod permittat, and this writ may be pleaded in the Countie before the Shiriffe, or Iustices of the common Banke by the Pone, but better it is for the chiefe Lorde to pleade before the Iustices of the common Banke, then in the Court

Countie, for the diſclaimer of the tenant, to whom no paine is giuen vpon the diſclaimer in the countie. But if the diſclaimer be afore Juſtices of record, then an action is giuen to the lord to demaund thoſe tenements in demeane, out of which the ſeruices doth go. And if the lord be wiſe, he may purchaſe ſuch maner of ſeruices, that if they be behind for default or diſtreſſe he ſhall haue remedie, after the forme as is conteined in the ſtatute of Weſtminſter 2. Cap. 21. which beginneth, Cum in ſtatuto &c. And with that agreeth the ſtatute of Glouc. Ca. 3. which beginneth, Enſement ſi home leſſe &c. And the one of theſe writtes of Cuſtomes and ſeruices negatiues is open, and beginneth thus, Prohibemus tibi ne iniuſte vexes &c. And the other is cloſe, and beginneth thus: Vic' ſalutem. Prohibemus tibi quod non permittas A. quod diſtringat B. ad faciendum ei conſuetud' et ſeruic' que de iure facere non debet nec ſolet &c. And the writ that is open is betwixt the tenant actor, and the lord defendant, but after that the tenant hath declared for ſuit and dammages, the lord defendeth the wordes of the court, and in the repleuin ſay, that he diſtreined not the tenant for the cuſtomes and the ſeruices, wherof the declaration is to the wrong, and not to the right, and after ſhewe all the declaration of the writ of Cuſtomes and ſeruices, and profer his ſuit to be good, and after the tenant, which was actour afore becommeth demaundant and ſhall defend by battaile, or by graund aſſiſe, as they ought to do. And it behoueth of fine force, that the tenant know-

knowledge to hold the tenements which are in demaund of the same lord, by some seruices, or otherwise a writ of escheat lieth. And if he will, this writ at the first shall be brought in the court of the same lord, that distrained, if he hath court, and there shall the tenant plead as long as the court may do right. And when the court may make no right, the shirike at the suggestion of the pleintike by vertue of such a clause that is conteined in the writ, that is to saye, Et nisi feceris &c. may make a Tolt out of the lords court into the countie, and from thence remoue the plee afore the Justices of the comō banke by a pone if he will after the order of ỹ writ of right open. The writ negatiue close is of Customes and seruices not due, & lieth in case, when the lord distraineth a man for customes and seruices not due, that nothing claimeth to hold of him, and namely, when the tenant that is distrained, knowledged no seruices to be due to the lord by his hand, and that is a writ of Right, and he that is actor shal become defendant, and the contrarie, and such writ will be determined by battaile or graund assise, as in the Quo iure. And there is difference betwixt this & the Ne iniuste vexes, for that that the Ne iniuste vexes wil all times be open, and the writ of Quod permittat close. And the plaintike that bringeth the Ne iniuste vexes, claimeth to hold of the lord that distraineth, and knowledgeth in maner part of his seruice of him demaunded, and part denieth. And he that bringeth his writ close

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declareth not to holde of the Lord the tenements and no seruices of him demaunded to be due by him to the Lord. And if the tenant be wise at the beginning, hee shall cause his beastes to be deliuered by repleuin, for if the tenant may auerre that the Lord, nor none of his auncestors were neuer seised by the hande of the tenant, or of his auncestors, or of any other tenant of the same tenements of the seruices demaunded after the limitation of the assise, the repleuin shall serue him: but peraduenture the Lord was seised by longe continuance of ꝑ seruices demaunded, though that it was by wrong by the hand of the tenāt, or of his auncestors, then the repleuin may not help, but than he ought to bring the Ne iniuste vexes, or if hee bee destrained by the chiefe Lord for suit, than in such case he shall bring a writ formed vpon ꝑ statute of Marl. Cap. 8 which beginneth. De secꝰ siquidem faciendꝰ &c.

Note yee, that a man may haue acquittaunce of the seruices in three maners, that is to say, by deede that counteruaileth acquittance, or for that, that the Meane is seised of other such euen seruices by the hand of the tenant, as the Lord Peramount demaunded of the tenant, or for that, that he and his auncestors of time, whereof &c.

Note ye, that this writ is of diuers natures, some are writtes of right determinable by battaile, or by graund assise, and that may none die, but he that of clære right may speake, and some are mixed in the possession, ꝑ that in diuers maners, for some is brought

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of the ſeiſon of the demaundant, by the hand of the defoꝛceant, and ſuch ẇꝛit ſhalbe in the Debet and ſolet, and ſome the ſeiſon of the auncẽſtour onely, and ſuch ẇꝛit ſhalbe in the Debet onely, ẇithout the ſolet, and ſhal declare foꝛ dãmages foꝛ the poſſeſſion, by ẇhich this ẇꝛit that ẇill be tried in the poſſeſſion may a man vſe, though that he may not trie the right, as tenant in doẇer oꝛ by the curteſie, and if the defoꝛceoꝛ ẇill diſclaime, than the tenant in doẇer oꝛ by curteſie ſhall haue aide of him in the reuerſion, foꝛ that, that he may not be partie to ſuch hie aunſẇere, that is to pleade in the right ẇithout him in the reuerſion to ẇhome the action is giuen by the diſclaimour.

A writ de Contra formam feoffamenti.

REx balliuis R. de B. ſalutem. Cum de communi conſilio regni noſtri Angliæ prouiſum ſit, ne quis occaſione tenementorum ſuorum diſtring. ad ſectam faciend' ad curiam dominorum ſuorum, niſi per formam feoffamenti ad ſectam illam, aut ipſi vel eorum anteceſſores teñ illa tenentes, ea fac' conſueuer ante p̃m transfr̃ domini H. R. proaui in Britañ, vobis præcipimus, ꝙ non diſtring. A. ad faciend' ſectam ad cur̃ prædictam de N. contra formam prouiſionis prædictæ, & diſtrictionem, quam ea occaſione feceritis, ſine dilatione relaxetis. Teſte, &c.

THis ẇꝛit lieth ẇhere a man infeoffeth another of certeine landes oꝛ tenements by Charter of feoffement, to make certeine ſeruices and ſuits to his court, and the loꝛd, his heire,

heire or his assignes distraine his tenant to make more seruices than is contained in the said Charter, then this said tenant may haue the said writ directed to the lord, commaunding him that he distreine not the saide tenant to do other seruices than his Charter will, as it is giuen by statute of Marl' Cap. 9. which beginneth: De sect' fiquidem faciend' &c. for none shall be bound to make suite to the court of his lord otherwise than is contained in his Charter. And the proces is attachement and distrelle vntil the partie come. And know ye, that this writ ought to be brought there where the plaintife claimeth by discent, and not by purchase. And also if any be distrained against the forme of any statute, he may haue a prohibition, and vpon the prohibition attachement, but he shal not haue attachement afore the prohibition sued. And note ye, that if any heritage of which one sole suit is due discend to manie parceners, then by the foresaid statute, he that hath the auncient part shall make the suit for all, and these other shal make contributton, & if they will not hee shal haue against thē a writ, De contributione facienda, which writ and many other that toucheth this matter shalbe found in the Register among writs of the statutes. And the proces is as in a writ of Dedimus potestatem de fine leuando.

Note yee, that in this writ, the defendant demaunded hearing of the deede of feoffement and the demaund was not allowed. M. 3. E. 1.

Note

Note ye, that if there be the Lord and the tenant, and the Lord is seised of two courts that is to say, one court in Dale, and of another in Sale, and the tenant holdeth of the Lord of the manor of Dale, and suit to the same, and it is agreed betwixt the Lord and the tenant, that the tenant shal make suit to the court of the manor of Sale, for the suit due to the court of the manor of Dale, the Lord in this case may distrayne his tenant to make the suit to the court of Dale, as hee ought, for the suit abydeth all times due to the court of Dale. And the same law is, if the Lord by agreement take vj. s. of rent by the yere, in allowance of suit, and so is seised by the space of xl. yeres, and at the last the vj. s. are behinde, and the Lord demaundeth his suit, in these cases the tenant may not maintaine a writ of Contra formam feoffamenti against the Lord. M. 3. E. 2.

¶ A writ of Meſne.

REx Vicec' N. ſalutem, Præcipe A. quòd iuſte &c. acquietet B. de ſeruic' quod C. ab eo exigit de libero tenemento ſuo, quod de præfat' A. tenet in N. vnde idem A. qui medius eſt inter eos, ipſum acquietare debet, vt dic'. Et vnde queritur quod pro defectu eius diſtringitur, & niſi fecerit &c. Teſte &c.

THis writ lyeth where there are Lordes, Meſne and tenant, & the Lord diſtraineth the tenant for the ſeruices, that the Meſne ought to do to the Lord going out of the land, then ſhall the tenant haue this writ against his Meſne. And if the tenaunt haue

any writing making mencion of any acquytail, or finall concord of his next Meane of whom he claymeth to holde the ground, or of his auncestors, or any seisin of any acquitail, by the hande of the same Meane, or of hys auncestors, if the meane do demaunde what he hath to bynd hym to the acquytal: then must he shew it. And after that the Meane hath entred into the acquitail, for to acquite the tenaunt of the seruices requyred by the chiefe Lord, the same meane may haue another writ against his meane betwixt him & his Lord, and so of euery of them. And thys writ of Mesne, and writs of Customes and seruices aforesaid, shalbe pleaded by the same delayes, as a writ of Trespas. And the proces in this writ is Summons, Attachment, and Distres. And day shalbe geuen before that the great distres shalbe returned, so that .ij. shire courts may be holden, & proclamation shalbe made in those .ij. shire courts, that the Meane shall come at the day contayned in the writ for to acquite the tenant, and if hee come not at the said day, then shall he lose the seruices of his tenant, and shalbe forjudged of his seignorie, and the tenant whych bringeth this writ shalbe immediate tenant to the chiefe Lord, and shall do the same seruices & suites, as hys Mesne did to the sayd chief Lord. And that is geuen by the statut of Westm 2. ca. 9. which beginneth. Cúm capitales domini &c. Neuertheless, the tenant shall not be prohibited to sue the proces geuen by the cómon law, that is to say, Summons,

mons,

mons, Attachment, and Distres, til the partie do come, if it bee for his proũt, for if the tenant holdeth of his Meane, by lesse seruices then the Meane holdeth of the chief lord, and the tenant sueth the proces geeuen by the statut, & the Meane is foriudged of bys seigniorie: then must the tenant do the same seruices to the chiefe Lord that the Meane did, which were greuous to the tenant, and therefore may the tenant choose, which of the two processes he wil sue in this case. And by the same statute this proces aforesaid, nor this foriudging is not geeuen, where there be many and sundry mesnes betwixt the superior Lord and the inferior tenant, but in case where there is onely one meane. And also this foriudging is not geeuen of right, but onely for the tenant of fee simple against the Meane of fee simple. Neuertheles at the common law, there was a writ of Mesne for the tenant in taile, and tenaunt for terme of lyfe, and that is prooued by the said statute, where it is said, Pro tenente in dote per legem Angliæ, & ad terminum vitæ, vel per feodum talliatum, nondum est remedium prouisum &c. But that is to be vnderstanded, ẏ that remedie as concerning the foriudger, is not ordayned for such tenauntes, but the tenaunt may haue a writte of Mesne, as yt doth appeare by the same statute.

And note ye, that a writ of Mesne may be pleded in the shire Court before Justices of the cõmon place, or Justices of Eire, nor the distresses shal not cease vpon the tenant,

though the writ were purchased vpon the Meine, because the chiefe Lord hath alwaies his recourse to his fee, for to distraine for his customes and seruices with arrerages of the same. And note ye, that a man may haue acquitance of seruices in diuers maner. s. by deede, or because that the Meine is seised of such seruices by the hande of the tenant, as the chiefe Lord demaundeth of him, or because the Meine and his auncestors hath acquitted the tenant and his auncestors at all tymes, or because he doth holde of him in Frankmariage, or in dower, or in frankalmoigne. And note ye, that in case the Meine be ready to acquite the tenant of the seruices due to the chiefe Lord, and the chiefe Lord doth distraine the tenant for the same seruices, then shal the tenant haue a writ directed to the Shirife of the same shire, rehearsing how that the Meine is ready &c. commaunding him, that he shall not suffer the tenant nor the Meine to be distrained by the said Lord, nor otherwise to be vexed by reason thereof. And note ye, that if the Meine do commit a felonie, for the which he is attainted, in this case thinferior tenant shall become immediate tenant to the chiefe Lord of such seruices as he did to the Meine. And note ye, that this writ may bee remoued out of the shire Court into the common place by a Pone.

Note ye, that equalnes, or oueltie of seruices is, where the tenant holdeth an acre of land of the Meine by vj. d. and the Meine hol-

holdeth the same acre ouer by vj. d. that is good oueltie, for that, that the tenant holdeth by that, that the Mesne holdeth & no more, but if the Mesne hold by more seruices then the tenant holdeth of him, that shal it not be said oueltie of seruices. P.4.H.6.

And it is not conuenient for the plaintife to shew the certaintie of the tenure betwixt the Mesne and the Lord aboue, for then shal follow, that the tenure betwixt the Mesne and the Lord aboue shalbe tried betwixt the Mesne and the tenant, and that shalbe no reason if the plaintife declare that he holdeth of the Mesne in frankalmoigne, and that he and his auncestors hath acquited him & hys predecessors tyme out of memorie &c. thys declaration is not double, for the frankalmoigne is no cause of the acquitail, except that he shew the gift. s. how the defendant and his auncestors which gaue in frankalmoigne, which is good cause of acquitail without more, or to prescribe, that he and his auncestors hath vsed to acquite the plaintif, by reason of frankalmoigne, and he haue not prescribed in frankalmoigne, and hath not shewed the beginning of the gift, but hath shewed the prescription general, the whych is good cause, and the other is but voide, if the plaintife prescribe, that the defendant ought him to acquite against the Lord paramont, and all other, and it is found for the plaintife, that the defendant ought hym to acquite against the Lorde, this prescription of acquitail against al the other is void.

Aſſ.39.H.6.

If the plaintife declare that he is diſtrayned by one D. for ſeruices of the Meine, and that the Meane holdeth of D. where there is two Lordes betwixt the Meane and D. the defendant may plead in abatement of the declaration, that hee holdeth not of D. P.44.E.3.

The Lord, Meine, and tenant are, and the Meane bindeth himſelfe by fine, to acquyte the tenant againſt the Lord, and his heires, the Lord taketh a wife, and hath iſſue and dyeth, the wife is endowed of the Seygnior, and diſtrayned the tenant parauaile for the ſeruices of the Meane, in this caſe the Meane ſhall acquite the tenant agaynſt the wife tenant in dower, though that he be not heire to the Lord, for that, that the reuerſion of the ſeruices is to the heire. P.31.E.1.

The Lord, Meine, and tenaunt are, the Lord diſtrayned the tenant parauaile for releaſe after the death of his father, in this caſe the Meane is not bound to acquyte hym againſt the Lord, for that, that the aunſwere that ſhould diſcharge him lyeth naturally in his mouth. M.17.E.3.

The Lord and tenaunt are, and the tenant maketh a leaſe for terme of lyfe, yelding certaine rent, and the Lord diſtrayned the leſſee for the ſeruices of the tenaunt, and the leſſee bringeth a writ of Meine, the defendaunt ſhall ſay, that the plaintife hath nothyng but for terme of lyfe, and he ſhal not ſhew of whole leaſe, iudgement &c. It is conuenient

for the plaintife to maintaine that hee hath fee, otherwise the writ shall abate, for that, that the writ lyeth not for tenant for terme of lyfe, but a writ of Couenant, and to say that he holdeth of the leafe of the defendant, the reuerſion to him that will make no iſſue. T.17.E.3.

The Lord, Meine being a woman, and the tenant, the Meane byndeth her ſelfe to acquyte the tenant, and after taketh a husband and hath iſſue, and the tenãt releaſeth to the husband, that he nor his heires ſhall not bee bound to acquitail, the husband and the wife dyeth, the tenant parauaile bringeth a writ of Meine agaynſt the iſſue as heire to hys mother, & he pleadeth this releaſe in barre, & it was holden that he ſhall not be barred, for that, that the defendant is bound as heire to hys mother. H.38.E.3.

The Lord, Meine, and tenaunt are, the Meane doth graunt by fine the ſeruices of his tenant to a ſtraunger in fee, to whom the tenãt parauaile doth not atturne, the grauntour doth take a wife, and taketh eſtate to hym and to his wife, and to the heires of the bodie of the wife, and for default of ſuch iſſue, the remaynder to the right heires of the husband, and they haue iſſue a ſonne, and the husband dyeth, in this caſe the ſonne ſhalbe charged of the acquitail, in ꝑ writ of Meine, if he may not auerre, that the tenant atturned to the graunt, and the wife ſhall not bee charged. H.40.E.3.

The Lord, Meine, and tenant are, the te-

nant is a woman, & taketh a husband which are distrained for the seruices of the Meine, in this case the husband, and the wife shall haue a writ of Meine against the Meine, & they shal declare that the wife is distrained, aswell as the husbande, supposing that the wife hath propertie of the goodes during the espousels, and yet the declaration is good. M.24.E.2.

Note ye, that forjudgement against the husband and the wife, is not voide, but errour, for he shall not haue a Cui in vita. M. 9.E.2.

In a writ of Meine, supposing that hee is distrayned by one R. whereof the defendant is Meane, the defendant said that another time the plaintife brought a writ of Meine against him, supposing that he is distrayned by one W. in the same land, and that we are meane betwixt them, so supposeth he that W. hath the seignorie, judgement of the writ that supposeth R. to haue the seignory and not allowed, for if there be two or three Lordes euery one aboue other, if any of them distraine the tenant paranaile, his suit is against his Meane, and he shall haue a writ ouer, and so his plee is no plee to the writ. M.29.E.3.

The Lord of a Hundred, Meine, and tenāt are, the tenant doth holde of the Meine by homage and escuage, the Lord demaundeth suit to his hundred, of the tenant paranaile, in this case the tenant shall not haue a writ of Meine, for as concerning the suit to the hun-

hundred, the Lord shall aduow vpon hym that is tenaunt of the lande, for otherwise he may not do, notwithstanding there is meane betwixt them, & for suit that is due, by reason of the reliance, the Meane shall not acquite him. M.4.E.3.

If the Lord paramont of whom the meane holdeth dyeth, hanging this writ, the writ shall not abate for that, that the writ was well purchased at one time, and it is no reason that it shal abate by the death of the lord that is a straunger, if it shalbe plee to say that the Lord is dead, it shalbe to the action, for the tenant shall haue no remedie by a writ of Meane, of that distres taken in the life of the Lord, but of a forthudger otherwise is, for there the writ shal abate by the death of the Lord paramont, for that, that the tenant may not be attendant to a dead person. E.4.H.6. E.13.E.3.

If the tenant do sell the mesnaltie by fyne hanging a writ of Meane, and the tenant sueth forth his writ & forthudged his meane, notwithstanding this alienation or sale, the tenant shalbe attendant to the chiefe Lord, & the graunt of mesnaltie shall not charge the tenant to attorne H.34.E.3.

If the tenant be distrayned for such seruices that the tenaunt holdeth of the Meane, he shall haue a writ of Meane maintenant, without any notice made to the Meane, but if hee bee distrained for other seruices then the tenaunt holdeth of the meane, then hee ought to make knowledge to the meane,

and

and after such knowledge, he shal haue a writ of Meine, and not afore. Ass. 15. H. 6.

Note ye, that in a writ of Meine, the quantitie of the seruices shal not make issue, as if the plaintife declare that he holdeth xx. acres of land of the defendant by certain seruices, and sheweth which & how he holdeth ouer by many other seruices, and how the plaintife is distrained, the defendant shal say, that the plaintife holdeth x. acres of the xx. acres by certaine seruices, and shew which & by many other mo seruices, that the plaintif hath not supposed, and that he holdeth these other x. acres by other seruices then the plaintife hath declared, & demaunded iudgement of the declaration, now the plaintife shal say by protestation, not knowing xx. acres are holden by many other seruices, as hath bene alleaged, but that they are holden by one whole seruice in the maner &c. Quod nota. Pa. 2. H. 5. T. 16. E. 3.

Tenant for terme of lyfe, the tenant shall not haue a writ of Meine against p meane, for he is not tenant to him, but to him in the reuersion: but if he be distrayned for homage he shall haue a writ of Meine, for hee may not do homage. M. 21. E. 3.

But tenaunt for terme of lyfe, or tenaunt where the remainder is ouer in fee, hee shall haue a writ of Meine against the Meine. The same law is of tenant in dower. T. 17. E. 3. Ass 15. H. 6.

If tenant by the curtesie be of a meinaltie, the tenant paravaile shall not haue a writ

of

of Meine against him in the reuersion, leauing the tenant by the curtesie. H. 14. E. 2.

The defendant in a writ of Meine sayeth, that where the plaintife hath declared that he holdeth of me, & I. ouer of C. B. I say that I. holdeth of C. B. as in ryght of his wyfe, and it is thought that it a good plee, for otherwise if the tenant ought to recouer by this writ, the Meine shalbe charged to two acquytails, the one by estoppel, and the other because of the meinaltie against C. B. and his wife, as in the right of hys wyfe. M. 22. E. 4.

If the Lord distrayne the beastes of hys tenaunt where there is a Meane, the meine may put hys beastes into the Pounde in gage for the beastes of the tenaunt, and shall haue a Replenyne, and pleade wyth the Lorde, and so euery estate saued, and if the Meine refuse to helpe his tenaunt by this maner, the tenaunt shall haue a writ of Meine vpon the speciall matter. Fi. 6. H. 4.

In a writ of Meine, it is no good declaration, to say, that the defendaunt and hys auncestours hath acquyted the playntife and hys auncestours, and those whose estate hee hath, but hee shall say, that hee holdeth of hym by Homage, Fealtie, and certayne rent, of whych seruyces hee is seised, and sayeth that hee and hys auncestours hath acquyted the playntife and hys auncestours tyme out of mynde &c. T. 11. Edw. 3.

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¶ A writ de Querela frisę fortiæ.

CVria domini Regis apud VV. in Guildhalda eiusdem villæ secundum consuetud' villæ illius, ac libertatem burgens. villæ illius per diuersos Reges Angliæ conf', & per dominum Regem nunc confirmat', coram Iohanne S. & A. T. Ball' villæ prædictæ die Lunę proxm̃ post festum sancti Bar' Apostoli, Añ regni E. 4. 9. Ad hanc Curiam venit T. Abbas sancti Petri de Hyde, iuxta VV. in propria persona sua, & queritur versus Thomã L. capellanum Cantuar' beatæ Mariæ virginis, in ecclesia sancti Petri in L. de placito Assisę frisęæ fortię, dicendo quód idem Tho. L. iniuste & sine iuditio, ac vi recenti disseisiuit eum de libero tenemento suo in VV. post primam transfretac' domini H. filij Regis Iohannis in Vascoñ, & infra quæ tenam &c. inuenit pleg. de pros. querelam suam I. H. & I. S. Ideo secundum consuetudinem villæ prædictæ, præceptum est R. P. & R. VV. seruientibus domini Regis ad clauas in eadem villa & ministris cur' præd', quód reseis. fac' tenement' prædictum de catallis q̃ in ipso capt̃ fuer', & ipsum tenement̃ cum catall' esse in pace vsq; ad prox. cur' coram Maiore & Balliuis ciuitatis præd' in Guildhalda prædicta, tali die prox' futur' tenend'. Et interim fac' xij. liberos & legales homines de vicin̄ præd', infra præcinctum libertatis villę prædict' videre tenț illud & nomina eorum in breuiari. Et quód sum̃ eos per bonos summonit̃ quód tunc sint parati inde facer' recogn̄. Et qd' poñ per vadios & saluos plegios prædict' T. vel Balliuum suum si ipse inuentus non fuerit, quód tunc sit hic audituri illam recogn̄. Et quód tunc habeant hic summonit̃ nomina pleg. &c. Et super hoc idem Abbas posuit loco suo I. H. versus T. S. de præ-

dicto

dicto placito. Ad quem diem præfati Seruientes retorn̄ hic panellum de nominibus recogn̄, q̄ huic rotulo est consutum. Et testatur quòd ijdem recogn̄ sum̄ sunt per Adam Pie et R.S. quorum vterque manucapitur per Iohannem Done, R.S.T.I. & T.S.

This writ lyeth in case where a man is disseised of tenements that are denisable, as in the citie of London or other borough or towne that is franchised, then the disseisie shall come into the Court of such a towne, that is infranchised &c. and entre his playnt, wherein he shall shew how he is disseysed, and vppon that shall twelue men say their verdict in like maner as in assise of Mouel disseisin.

And know that the cause why that it is called fresh force, is for that, that if the disseisie cause not his plaint to be entred, nor recouered within xl. dayes, he shall be put to his recouerie at the common law, that is to say, to Assise of Mouel disseisin. Ideo q̄re. And if ꝑ Maiorꝫ the ministers of the court will not award execution of ꝑ iudgement of this fresh force: then the party pursuant or plaintif shal haue this writ following to haue execution after the forme of this plaint, & shall be directed to the bailifs of the same towne. And the writ of Execution is such.

REx Ballliis I. de C. salutem. Præcipimus vobis quod executionem iuditii nuper reddit̄ in curia nostra de S. sine breui nostro inter A. et B. de quadam fris̄a forcia eidem A. per præfatum B. in R. fact̄ (vt dicitur) sine dilatione fieri faciatis. Teste &c.

&c. Et Sicut alias et cum Pluries if nede be &c.

¶ A writ de Ex graui querela.

REx Maiori et Vic' London ſalutem. Ex graui querela I. filię E. et VV. ſororis eiuſdem I. accepimus, quód cúm ſecundum conſuetud' in eadem Ciuitate hactenus obtentam et approbatam, liceat vnicuiq; Ciui eiuſdem ciuitatis teñ ſua in eadem ciuitate in teſtamento ſuo in vltima voluntate ſua, tanquám catalla ſua, legaſ cuicunque voluerit: ac S. Ciuis ciuitatis prædictæ iiij. meſuag. cum pertiñ in eadem ciuitate in teſtamento ſuo et vltima voluntate ſua, E. habend' ſibi & hered' ſuis de corpore ſuo exeunt', legaſſet &c. R. et D. vxor eius, duo meſ. et tres ſhopas inde præfatis I. et VV. filiabus et hæred' eiuſdem R. detinent minus iuſté, in ipſorum I. et VV. diſpendium non modicum et grauamen. Et quia eiſdem iniuriari nolumus in hac parte, Vobis precipimus, quòd vocatis coram vobis partibus prædictis, auditiſq; hinc inde earum rationibus, inſpectoq; tenor teſtamenti prædicti, eiſdem I. et VV. fieri faciaſ debitum et feſtinum iuſtitię complementum, prout de iure et ſecundum conſuetudinem predictam fuerit faciend', et hactenus in caſu conſimili fieri conſueuit. Teſte &c.

This writ lyeth where a man is ſeiſed of certaine lands or tenementes in fee, within a Citie, Towne, or Borough, which lāds or cuſtomes are deuiſable, and he by his teſtament deuiſe to a man the ſayd tenements, and dyeth, if his heire or any other man enter in the ſaid landes or tenementes ſo deuiſed, then the deuiſee or his heire ſhal haue the ſaid writ againſt the heire of the deuiſour,

ſour, or againſt any other man that abated, not regarding in what manner degree that he is in, after the deuiſe made, if the deuyſour dyeth, the deuiſe not annulled in the lyfe of the deuyſour.

And knowe ye, that this writ ſhal neuer be pleaded afore the kinges Juſtices, but all times afore the Maior, and the Bailifes of the Citie or Borough, or afore the Bailifes where there is no Maior, or afore the Bayliſes of any towne, or afore Bailifes of fee, or ſeigniorie, where there is ſuch vſage.

And knowe ye, that no freehold may be deuiſed, but where ſuch vſage is, for euery deuiſe of freehold is againſt the cõmon law, but the law ſuffers ſuch deuiſes to be made becauſe of ſuch vſage of ſo long tyme vſed. And the proces is ſuch, that the tenant ſhal be ſummoned to be afore the Maior and the Bailifes at a certaine day, to ſhew wherefore the other ought not to haue execution, and if hee can nothinge ſay agaynſt hym, then the demaundaunt ſhall haue execution.

Note ye what deuyſes are good, and what not, and who ſhall deuiſe, & of what thyng, and who ſhall haue aduantage of the deuiſe. M. 22. E. 3.

If land be deuiſed to a man by teſtament, without ſhewing what eſtate he ſhall haue, he hath nothing but for terme of lyfe.

Note ye, that the huſbande may deuyſe lande in fee, or for terme of lyfe to hys wife. M. 3. E. 2.

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A woman may not deuise lande by her testament to her husband, for because shee may not make testament but by the assent of her husbande, and that is the deede of the husbande to make estate to hym selfe, whych is against the law. Aſi 3. E. 3. Itiñ Nor.

Land deuisable is geeuen to the husband & his wife, and the heire of their two bodyes begotten, and for default of such issue to remaine to the right heires of the husband, the husband deuised the same remainder to hys wife that is tenant in taile, & dyeth without issue betwixt them, this deuise of remainder is good. Aſi 27. E. 3. Lib. ass. plac 40.

A woman seised of certaine land deuisable taketh a husbād and hath issue, and the wyfe deuise the lande to her husband and dyeth, now he shalbe iudged in, as tenaunt by the curtesie, and not as tenant by force of the deuise, for the freehold beginneth in him afore the deuise. H. 29. E. 3.

A man deuysed landes for terme of life, and deuised further, that his executors should sel the reuersion and dyeth, the executors solde the reuersion without deede, for because that is but a contract, and the reuersion passeth by the authoritie of the deuisee, and the testamēt is the cause that the reuersion passeth. For if a man make a Priest his executor, and deuised that his executor shall sel the reuersion, that is good without deede, for otherwise it shall neuer take effect, for a Priest may make no deede that shall bynde hin, and a fine he may not leuie, for that, that he hath

nothing

nothing in that. M.19.H.6.

A wife of the assent and will of hir husbande maketh a testament & deuised by the same haise ỹ goods of the husband & maketh her executors, who proueth ỹ testament by ỹ assent and will of the husband, that is a good deuise. M.5.E.3.P.39.E.3.

If a man deuise land whereof he is not seised, if after he purchase the lande, the deuise is good. M.26.H.6.

Note yee: if land be deuised to a man and to his heires males of his body, and he hath issue a daughter which hath issue a sonne, the sonne shall enherite, & yet of a gift otherwise it is. H.7.H.6.

Note yee that ỹ king may not deuise land by testament, nor giue nothing but that, ỹ he hath in possession, by Fort. M.37.H.6.

Note yee: that executors may pay ỹ debts afore any deuise performed.

It is saide that there is diuersity betwixt a graunt and a deuise, for if one deuise land to me for euer, or to any assignes for euer &c. and speaketh nothing of his heires &c. that are wordes of enheritance, yet the deuise is good to take effect in the deuisee as a fee simple, for that that his will & entent shalbe taken in this case &c. E.2.H.6.M.18.H.6.

If a man deuise goods & dieth, the deuisee may not take goods without liuery of ỹ executors. M.37.H.6.

If a man deuise a booke, or any other thing to one for terme of life, and after his decease the reuertion to another for euer, if the exe-

cutors delyuer the goods to the first deuisee after ꝑ deliuery the deuisee dieth, then the second deuisee may seise the goods without liuery of executors: for possession of the first is the possession of both, which was denyed by some men, therefore enquire the law, C. 37. H. 6.

If two iointenantes are, and the one deuyse all that, that to him belongeth, to a straunger and dyeth, this deuise is voyde. Causa patet &c.

¶ A writ de Communi custodia.

REx vic' salut. præcipe A. q̄ iustè et sine dilatione reddat B. custodiam terræ et hered' D. et E. quę ad ipsum B. pertinet, eo quod prædictus D. terram suam de eo tenuit per seruitium militare, vt dic', et nisi fec. et prædictus B. fecerit &c, tunc sum &c. Teste &c.

THis writ lieth where a man holdeth lands or tenements of another by knights seruice, and the tenant dyed, his heire within age, a straunger entreth in the landes ę obtaine the warde of the body, then the lord of whom this land is holden, shal haue the said writ. And the proces is in this writ, Somons, Attachement, and two distresses and day shalbe gęuen afore the seconde distresse returned ꝑ three shire courts may be holden. And this proces is gęuen by the statute of Westm 2. cap. 35. which begynneth. De pueris masculis siue ęc. And with this agręd

Mart

Mart cap. 7. which beginneth. In plito vero de cõi custodia &c. As to the distresse, but not to the proclamation. And also will the said statute, that if the defendant come not at ỹ proclamations made in the three counties, the plaintife shal recouer the warde for the time, sauyng another tyme the right of the defendaunt when hee will speake. And also if the warde belonge to the Lorde by reason of a warde that he hath in possession, & a straunger obtayne the same warde, the Lorde shall haue the said writ, but the commõ proces is, as afore was vsed in the common lawe, and the lord shall holde the warde by reason of the warde vntill his full age, and this is the cause, for that that it is a chatel in him, & he is thereof seised, & he may not bee put out of possession afore the full age of the heire. And know ye: that if the gardein make waste in any parte of the ward, he shal lose the ward, and ouer that he shal yelde damages to the infant, & if the wardship losse sufficed not to the value of the damages afore the age of the heire he shal make grœment of the remenãt. And that will the statute of Glouc Cap. 5. in the middes which beginneth, Ensement est purueu &c.

¶A writ de Entrusion de garde.

REx vicecom̃ salutem. Si A. fec' te &c. tunc sum̃ &c. B. filiũ et hered' D. quod sit coram &c. ostens', quare cum custodia terr' et hered' ipsius D. ad ipsum A. vsque ad legitimam ætatem prædicti

her̄ pertinet, ratione dimissionis, quam A. de B. de quo predictus. D. terram suam tenuit per seruitium militare, inde fecit predicto A. et idem B. infra etatem existens, se in terram predictam intrusit, & custodiam illam a prefato A. adhuc detinet, ad graue dampnum ipsius A. vt dicit̄. Et habeas ibi sum̄ & hoc breue &c. Teste &c.

This writ lyeth where the infant within age entred into his lands and holdeth his Lord out, the Lord shall not haue ꝑ foresaid writ de Cōi custodia, But this writ of Intrusion of warde.

¶ Note yee: ꝑ an Abbot shal haue this writ of Intrusion, of an Intrusion made in ꝑ time of his predecessour, & he shal make mētion in his writ ꝑ the agremēt was not made to his predecessor nor to him. T. 11. H. 4.

¶ A writ for the valure of the marriage.

REx vic' salutem. Si A. fecerit te secur̄ &c. tunc sum̄ B. filium et hered̄ C. ostens. quare cum maritagium predict' B. ad predictum A. pertinet, eo quod predictus C. terram suam de eo tenuit per seruitium militar̄, & idem A. predict' B. dum infra etatem fuit, competens maritagium obtulerit, idem B. maritagium renuens, prefato A. de maritagio suo nondum satisfecit, sed adhuc satisfacere contradicit, ad graue dampnum ipsius A. et contra formam statuti predicti, vt dicit. Et habeas &c. Teste &c.

This writ lieth where the Lord profereth cōuenable mariage to ꝑ Infant without disparagement, and hee refuse, the Lord shall haue

haue this writ, whereby he shall recouer the single value of the mariage &c.

A writ of forfaiture of marriage.

REx vic' salutem. Si B. de A. fecerit te secur de clam suo &c. tunc sum &c. C. filium et hered D. quod sit &c. ostens. quare cum maritagium ipsius C. vna cum custodia ducentarum acrar terre cum pertin in R. ad ipsum A. pertineat ratione dimissionis. F. cui G. eum dimisit, de quo predictus D. terram suam tenuit per seruitium militare, inde fecit prefato A. & idem A. præfato C. dum infra etatem fuit, competens maritagium absque vlla disparagatione, iuxta formam statuti de communi consilio regni nostri inde prouisi, sepius obtulerit, idem C. maritagium illud recusans, se fine licentia & voluntate ipsius A. maritar fecit, & se in terram predictam, prefato A. pro maritagio suo non satisfacto violent intrusit, & de maritagio predict' eidē A. satisfacere contradicit, ad graue dampnum ipsius A. & & contra formam statuti prædicti vt dicit. Et habeas ibi sum &c. Teste &c.

This writ is giuen by the statute of Merton Cap. 6. and lieth where the Lord proffereth conuenable mariage to the infaunt without disparagemēt, and he refuse, and he being within age mary himselfe, in this case the Lord shall haue the writ of Forfatture of marriage, and recouer the double value. And if this gardein hath recouered the value of the marriage against the ravisshour, if hee profer to the heire a conuenient marriage, and hee refuse to bee married, and after

marry him selfe, the lord shal not recouer the double value of the mariage, for that, that he toke the value of the mariage of the rauyshor. And if the heire that is rauished be maried without assent of the rauishment, & after the gardeine recouereth the value of the mariage against the rauyshor, in this case the rauishor shal not haue this writ of Forfaiture of mariage against the heire, for the heire may plede that he hath no right of the seigniory, nor ỹ lord shal not haue a writ of Forfaiture of mariage, for that, that he hath receiued the value of the mariage against the rauishor. Note ye: that some mens opinions is that in a writ of Forfaiture of mariage, the value of the mariage is not geuen to the lord, where he hath the land in his hand, by reasō of which he hath the wardship, but if ỹ heire abate in the lande at his full age afore that he hath agreed with the lord for his mariage, he shal haue the said writ, for that is mentioned of in the writ, but in case that he hath not the wardship of the lande, he shall haue the writ aforesaid, for there shall bee no mention made of the abatement of the heire into the land.

Land was geuen to the husbande and his wife, & to the heires of their two bodies begotten, and hath issue a sonne, the husbande dyeth, and after the wyfe dieth, and the lord seyse the warde, and profer to him maryage, the which he refuseth and marieth himselfe, and at his ful age he entred in his land with out greement made to the lord, the lord bringeth

geth a writ de Quare se intrusit maritagio non satisfacto, in the which writ he did suppose ꝙ the defendant was heire to his father, where the mother suruiued & the defendant pleaded that in abatement of the writ, and the writ was awarded good: for that, that it is in the personalty, & it is a personal wrong made by him self to which he ought to answere. And the gardein shall recouer the double value of the mariage. H. 14. E. 3.

¶ A writ de Rauishment de garde.

REx Vic' salutem. Si A. de B. & E. vx. eius fecerint &c. tunc pone &c. quod sit coram Iustic' nostris ad primam assisam &c. ostens. quare I. filium & heredem H. infra ætatem existentem, cuius maritagium ad ipsos A. & E. pertinet, apud VV. inuentum rapuit & abduxit contra voluntatem ipsorum A. & E. & contra pacem nostram.

Et si heres sit in eodem comitat', tunc addat ista clausula.

Et interim diligenter inquiras vbi ille hers est in ball' tua, & ipsum, vbicunque inuentus fuerit, capias & saluo & securé custod', ita quod eum habeas ad prefatam assisam corum præfatis Iusticiarijs (vel coram nobis) ad prefatum terminum, vel cor præfat' Iustic' nostris ad prædictum diem, ad reddendum cui (vel quibus) dictorum A. E. & I. reddi debet. Et habeas ibi nomina pleg. & hoc breue. Teste &c.

Ostens. quare cum custodia Iulianæ filiæ vnius her' G. ad ipsum B. pertineat ratione venditionis quã A. de T. de quo prædictus G. terram suam tenuit ꝙ seruitium militare, inde fec' eidem A. pred' B. & C.

predictam Iulianam infra ętatem in cuſtodia ipſius A. apud N. exiſten, vi & armis rapuerunt & abduxerũt, & bona & catalla ipſius A. ad valenꝫ &c, ibidem inuenꝫ ceperunt & aſporꝫ &c.

This writ lieth in caſe where any lorde is in poſſeſſion of the wardſhip of the land, & of the body, and a ſtraunger rauiſhe the body of the infant without any other thing, then the lorde ſhall not haue the forelayde writ, De cõmuni cuſtodia: but this writ of Rauiſhment of warde, that ſuppoſeth the infant to be rauiſhed with force and armes. And for that, the proces is, as is contayned in the aforelayde ſtatute, that is to ſay, Somons, Attachement, and diſtres, and for default of diſtres, proces of vtlawrye, as in a writ of Treſpas.

And note ye, that when the heire is rauyſhed in one countye & brought into another county, then the lord ſhall haue ſuch a writ, the which is geeuen by the ſtatute of Weſtm 2. Cap 15. which beginneth, De pueris maſculis, ſiue femellis, quorum maritagium &c.

REx vic' ſaluꝫ. Queſtus eſt nobis A. quod B. nuper de C. filium & heredem I. infra ætatem et in cuſtodia ſua apud M. in cõm L. exiſtenꝫ rapuit, & de cõm illo ad talem locum in cõm tuo abduxit, contra voluntatem ipſius A. & contra pacem noſtram. Et ideo tibi precipimus quod predict' C. vbicunque in balliua tua inueniꝫ poteris capias ſalno & ſecuꝫ cuſtod, ita quod eum habeas coram Iuſtic. noſtris tali die, ad reddendum cui predict. A. & B. reddi debeat &c,

¶ De

¶ De herede abducto fiat tale breue.

REx &c. Oſtenſ. quare cum cuſtodia terr. & heredis D. vſque ad legitimam ætatem eiuſdem heredis ad ipſum A. pertinet, eo quod prædictus D. terr ſuam &c. Et idem A. in plena & pacifica ſeiſina &c. predictus D. filium & heredem &c.

And ỹ proces is, as is aforeſaid in ỹ writ of Rauiſhment of warde &c.

And note ye that if any man holdeth any lands or tenements of any Lord by knights ſeruice and dieth, his heire within age, the ſame Lord may enter in that wardeſhip of ỹ land, & take the body of the heire. And if one tenant hold. ii. acres of land ſeuerally by ſeuerall ſeruices, the Lord of whom the lande is holden by the auncient feoffemẽt ſhal haue the ward of the body, & that is geuen by the ſtatute of Weſtm. 2. Cap. 19.

And note yee, that there is two maners of writs of ward. The one is where a man holdeth of another landes by knightes ſeruice: The other where hee holdeth in Socage. The wardſhip by knights ſeruice belongeth to the chiefe Lord of the fee. And the wardſhip in Socage belongeth to the next coſin, after the ſtatute De wardis 28. E. 1. to whom the heritage may not diſcende. But in caſe ỹ the mother be on liue & the heritage diſcende from the part of the father, and the heire bee within age, the mother ſhal haue the wardeſhip aſwel of the land as of the body, & in the ſame maner ſhal the father haue & ſo ſhall other coſins & anceſtors haue.

And in caſe that the next frend be deſpoyled of

of the ward, he shal haue this writ.

REx vic' salutem. Præcipe A. quod iuste &c. redd' B. custodiam terr' & heredis C. quę ad ipsum B. pertinet, eo quod prędictus C. terram suam tenuit in Socagio, & prædictus B. est propinquior heres ipsius C. vt dic'. Et nisi fecerit &c. Teste &c.

And if the heire in Socage bee rauished and not maried, then the gardeyne shal haue this writ.

REx vic' salutē. Si A. fecerit te &c. de &c. tunc pone &c. B. quod sit &c. corā Iustic' ostens. quare cum custod' terr' & hered' C. vsque ad legitimam ætatem ipsius hered' ad ipsum pertinet, eo quod prædict' C. terram suam tenuit in socagio: & prædict' A. propinquior est her' ipsius C. infra ætatem, & in custod' ipsius A. existen apud N. inuent vi & armis cepit et abdux. & alia enormia ei &c. vt in breui de transgressione.

Aliter qñ maritatur. Rex &c. vi & armis cepit & abduxit &c. ipsum sine licentia et voluntate ipsius A. maritauit, ad graue &c.

And note yee: that a writt of Rauishement of warde for the gardeyne in Socage is not geuen by the statute of West. 2. Cap. 35. which beginneth: De pueris &c. But for that, that ꝑ statute of Westm. 2. Cap. 24. is quod querentes non recedant a Cancellar sine remedio: this writt is geuen by the common counsel of the Chauncery, and the writ was that he claimeth the warde vntill he come to full age, and the writte was awarded good: Note ye: that gardenship in socage may not be solde. H. 3. E. 2.

And

And note ye: that a man may demaund the wardship in thꝛee manners. One manner is when a man demaundeth the wardship of the lande & of the body by wꝛit of right of ward, as afoꝛe is laid. The ſecond maner is, when one tenant holdeth of two lozdes, of the one by pꝛiozity, & of the other by poſteriozitie: ꝑ lozd of the poſteriozity may not bꝛing a wꝛit of warde of the land and the body: foꝛ the wody belongeth to the Lozd of the pꝛiozity, and there the lozd of poſteriozity ſhal haue a wꝛit of Eiectment de gard. The third maner is whē a man hath the land and not the body, Then he ſhall haue a wꝛit to demaunde the bodye without the land, and that by this wꝛit of Rauiſhment of warde.

And note in caſe where the heire hath ben in warde of the lozd, and the lozd wil not deliuer to him his landes at his full age, Then the heire ſhall haue Aſſiſe of Moꝛtdaunceſtoꝛ and recouer the lande with his dammages, after that, that hee come to his full age, As it appeareth by the ſtatute of Marl' Capitulo 16. which beginneth. Si heres aliquis &c.

And note ye: that if the infant bee maryed in the life of his father, though that after the death of his father he is within age, and the wife of the heire dyed, the lozd ſhal not haue the mariage foꝛ that, ꝑ he was one time maried. In the ſame maner is if the lozd marry the Infant & his wife died, he being within age, the lozd ſhall not haue the mariage another time.

It is ſaid that there is gardeine in right & Gardein in dæde, for if the gardeine in dæde let the lande to a ſtraunger for yeres, a writ of Dower, or a writ of ward is not mayntenable againſt him, but againſt ỹ lord. Otherwiſe is where the gardeine in right, or gardein in dæde, lets his eſtate without wryttinge vntil the ful age of the infant, in which caſe the writ ſhall bee maintayned againſt thoſe leſſees.

And note: that if the heire hath bæne in ward, he ſhal pay no reliefe but where his anceſtor held of the king by knights ſeruice, or by fee farme, that payeth knight ſeruice, the king ſhal haue the ward of al the lands & the body, & when he commeth at his full age, he ſhall pay relief to theſe other lords, after the quantitie of his tenure, as it appeareth by the great Charter cap. 2. But the heire in franke Socage, when he commeth to his ful age after the death of his auncestor he ſhall double the rent that he was wont to pay to the lord and that ſhal be in place of reliefe, As it appeareth by the ſtatut de wardis & releuijs Cap. primo.

Note ye: that Socage may be ſaid in tij. maners, that is to ſay, ſocage of free tenure, Socage of auncient tenure, & ſocage of baſe tenure. Socage of free tenure is where a man holdeth by free ſeruice of xij. d. by yere for al manner of ſeruice, or by other ſeruices yerely. And in this Socage the next coſin to the infãt to whom the heritage may not diſcend, ſhal haue the warde as it is afore ſayde.

Socage

Socage of auncient tenure is of land of auncient demeine where no writ original shalbe sued, but the writ of right, ỹ is called Secundum consuetudinem manerij. Socage of base tenure, is of those that holde in socage, & may haue none other writ but ỹ Monstrauerunt, & such Sockmē holdeth by no certain seruice & for that are they not free sockmen.

A man shal haue a writ of Rauishment of warde of the body notwithstanding that hee was neuer in possession of the body, for maintenant after the death of his tenant, the heire being within age, the possession of him is adiudged in the lord by the act of the law.

If a man make a feoffement by deede or by fine of landes holden by knights seruice, or suffer any recouery against him to his vse vpon trust & dieth, his heire shal pay relefe if he be of ful age & that by the statute of An 4. H.7.cap.7.

And if the tenant in socage make feoffement to his vse, the lord of whom the land is holden after the death of his tenant, whereof no will is declared, shal haue his relefe and heriot & al other dueties, as he ought to haue had, if the tenant had died seised. And that by the statute of An 19.H.7.cap.15.

In a writ of Rauishement of warde &c. It was sayd that if the tenaunt of a Byshop die, his heire within age, and after the Bishop died and seyse not the Infant in his life, the successour may seyse, or haue a writ of Rauishment of warde. And it was sayde, that it is no plee in a writ of Rauishement

of

of ward to say, ꝑ the auncestor of the infant held not of him, for whether he holdeth of him or not, it shal not be lawful for no man to ravish the ward from him without affirming title in himselfe. M. 2. H. 4.

In a writ of Ravishement of warde the plaintife declareth ꝑ the father of the infant holdeth of him a manor by knights service in S. &c. & that the defendãt hath him ravished & in the writ ꝑ infant was made heire to his father, because ꝑ the father died seised of the said manor in his demesne as of fee. And the defendant alledged that ꝑ grandfather of the infãt died later seised &c. so ought he to have ben made heire to the graundfather, & not to the father, & that was no plee without shewing ꝑ the graundefather died later seised by title, for it may be that he was in by abatement, & after the issue was taken, that the graundfather dyed later seysed of fee, without that, that the father died seised of fee, & the playntife maintained that the father dyed seysed of of fee &c. M. 10. E. 3.

A writ of Ravishement of warde was brought against iiij. men & a woman, the inquest said that the men were gilty of the ravishment, & not the woman, but that she maried the infant to her daughter, & for ꝑ was she likewise adiudged giltie as ꝑ other were, & the plaintife recouered the value of ꝑ mariage without dammages, & they awarded to prison by the statute of West. 2. cap. 1. And it was demaunded of ꝑ plaintif if they were sufficient or not, & he said that they were: for

other=

otherwise they ought to be awarded to perpetual prison, or abiured the land by the same statute. E. 8. E. 3.

¶¶A writ de Ejectione custodiæ.

REx vic' salutem. Si A. fecerit &c. tunc sum per bonos &c. B. quod sit &c. tali die ostens. quare custodia terræ & hered' D. vna cum maritagio vsque ad legitimam ætatem eiusd' her ad ipsum A. pertineat pro eo quod prædictus D. terram suam tenuit de eo per seruic' militare. Et idem A. in plena et pacifica seisina eiusdem custodiæ diu extiterit præd' B. ipsum A. a custodia illa vi & armis eiecit ac bona et catalla sua ad valenc' C. s. apud D. inuent' cepit et asport', et alia enormia &c. et contra pacem nostram &c. Teste &c.

This writ lieth where the lord is put out of the wardship of the land that he hath in his possession, then the lord shal haue the said writ against him that putteth him out. And know ye, that this writ of putting out of the wardship lyeth at al times, when the lord is put out of the wardship of the land without the body. And a writ of Rauishmēt of ward lyeth where the bodye is rauished without the land. And a writ of right of warde lyeth where he is put out of both. And it is sayd, that the gardeine in Socage may mainteine this said writ and a writ of Rauishment of warde, but not a writ of Ryght of warde. By the Regiſter a man may haue a writ of Right of warde, and also a writ of Rauishment of warde by reason of a ward. And know ye that in a writ of right of warde the procla-

proclamatiō shal not be made afore the great distresse retourned, but in a writ of meane in the great distresse, it shalbe commaunded to the sherife that he make the proclamation as is geuē by the statute of Westm̄ cap. 9. which beginneth Cum capitales domini &c. And also the same statute Cap. 35. which beginneth. De pueris &c. will that in a writ of ryght of warde proclamation shal be made by default of the defendant, but by the same statute in a writ of rauishment of warde by default of the defendant he shal make no proclamatiōs, but al times a distresse. And also knowe ye: that gardein in socage is accomptable at the ful age of the infant, as it is said in a writ of accompt, that is to say, at xxi. yeres, and not afore, but the infant shal haue his land in his owne handes when he is of the age of xiiij. yeres.

And note ye: þ of lands holden by knights seruice, the statute of Marl' cap. 6. which beginneth, De hijs autem &c. will that where the heire is enfeoffed, being within age by his auncestor, that the Lord shall not lose the wardship by reason of such feoffement made by such Collusion. And also by a feoffement made vpon condition by the auncestor yelding to him & to his heires a great summe of money vnto a certayne terme, at the ende of which terme the heire may be of full age, and then to enter into the lande, in this case the lord shall not lose the wardship, if hee may proue by his writ of right of warde that the tenant made the feoffement by collusion, and

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if lands be let for terme of life, the remaynder to an other in fee, and he in the remainder dieth, his heires within age: the Lord shall not haue the wardship of him during ꝑ lyfe of the tenant for terme of life: but if the tenant for terme of life dye, the heire beinge within age, and enter into the land by force of the remainder, now the lord shall haue the wardship: for that, that he is heire to his father. And in case that a man let lands or tenements to another for terme of life, sauing the reuersion to him and to his heires: if the lessor dye, his heire being within age, ꝑ lord shall haue the ward and mariage of the heir, notwithstandinge that he hath estate for terme of life, to hold of the chiefe lord of the fee. And also if land be geuen to two: to the one in taile and the other for terme of lyfe, if he in taile die, his issue within age, the lord shall not haue the ward of the bodie: for that that the tenant for terme of life is tenant to the chiefe lord: but after the death of the tenant for terme of life, the heire being within age, he in the reuersion shall haue the wardship, and not the lord.

If the father be seised of certain lands and tenements, and hath issue a daughter within age that is his heire, and marie her to a man of full age, and dieth, the lord shall not haue the wardship: for that that the husbād is able to make the seruices due by reason of the land.

But in case that a man marrie his daughter being of full age to an infant, and dyeth,

in this case the Lord shal haue the wardship, for the wife may make no seruices during the mariage. Quære.

And note ye, that all writs of ward except this writte of puttinge out of the warde, may be pleaded in the countie, and remoued into the common place by a Pone. And where the statute of Westm. ij. cap. 16. which beginneth, In casu &c. Will, that if landes discende from the part of the father holden of one mā, and other lands discend from the part of the mother holden of another man, the Lord of whom the land is holden by the first feffemēt shall haue the wardship & the mariage: but the tenant by his feoffement may change the prioritie into the posterioritie. But it is said if a mā come to diuers lands holden of diuers lords by one feffement, he that first may obtaine the wardship of the wdie, shal haue it: but if lands be holden of the king by knights seruice, he shall haue the wardship aswel of the lands holden of other lords by knightes seruice, as of any other lands holden of him self, and also shall haue the mariage, hauing no regard to the prioritie nor to the posterioritie, as it appeareth by the kings Prerogatiue chap. 1.

And note ye, that this was iudged for the Earle of W. anno 20. E. 3. where the Earle was seised of an infant & of his lands, for that his auncestor died in his homage, where other lands were discended to the said infāt by another auncestor that was holden of the king by prioritie or posterioritie: in the one

case

case or other, the kinge shall not haue the wardship of no lands, but of such lands holden of him selfe, nor the wardshippe of the wdie, & the cause is, for that, that the Earle was seised of the ward at one time by true title. And know ye, that if any tenant died seised of any lands holden by posteriority, and the Lord of whom the land is so holden obteyneth the wardship of the wdie: if after other lands discend to the same infant, that are holden of another lord by prioritie, ỹ lord that first obteined the ward shall not be put out of the wardship by him of whom the ancestor of the heire held by prioritie: for that that it was a chatle one time in the possession of the lord of whom he held by posteriotitie.

And note ye, ỹ if two coparceners bringe a writ of ward, & the one wil not pursue, the other shalbe receiued to pursue her right of the half of the land & the whole wdy: otherwise is in all maner of actions personalls, as trespas, debt, couenant or such like, the notsuing of the one, shalbe the not suing of the other. And note ye, that if an infant be rauyshed & maried by the rauishor to one, whereby he is disparaged, he may forsake his wife if he hath not knowen her carnally before the age of xiiij. yeres.

Note ye, that these wordes were in ỹ sayd writ, Quare custodiam terræ & hæredis: and it was chalenged. For this writ properly hath relation to the land, & he may haue an other writ for the wdy: & notwithstanding ỹ writ

was awarded good. T.2.E.1.

Note ye, that this said writ was brought of land & rent, and was challenged for that the rent may not be holden: for the meine is tenant of the land having regard to his lord, and of him he holdeth the land and not the rent. For these writs of Ward, Escheat and Cessauit are not geuen of rent &c. but after of good will the defendant palleth ouer. Ideo quære. H.13.E.3.

In this writ of putting out of the warde by reason of a deuise, such a clause was in the writ, et blada sua apud H. nup crescen̄ mes-fuerūt, et blada illa ac omnia alia bona et catalla ibid inuent, ceperunt et asportauer̄ contra pacem: & for that, that this writ was graunted vpon the right of the seigniorie, and within the same an action of trespas against the peace was comprehended: so is there comprehended with in the same action, two actions of diuers natures. wherefore the writ abated. H.11.E.3

If an Infant being aboue the age of xiiij. yeares make affiance in the life of his auncestor, and after his auncestor dyeth, notwithstanding this affiance, the lord shall haue the mariage.

Also if the Infant be maried in the lyfe of his auncestor, and the auncestor and shee to whom the infant was maried, dyeth, the infant being within xiiij. yeres: the lord shall haue the mariage: otherwise it is if he were past the age of xiiij. yeres at the time of the death of his auncestor, or at the time of the death of her to whom he was maryed: for by

the

the taking of the ſecond wife, he is made bigamus to which the lawe will not conſtrayne him: but if the infant be married by the lord, and ſhee to whom he is maried dyeth, he being vnder the age of fourtene yeares: Quære if the Lord ſhall marrie hym an other tyme. An. 7. H. 6.

If the tenant that holdeth by Knightes ſeruice enter into religion, his iſſue within age, Quære, if the lord ſhal haue ỹ wardſhipp during the naturall life of the father, for ſuch death maketh no diſcent, that taketh away any mans entre, nor ſuch death intitleth no woman to haue dower during the naturall life of the huſband.

A VVrit of Eſcheat.

REx vicecomiti ſalutem. Præcipe A. qđ iuſtẽ & ſine dilatione reddat C. decem acras terræ cum ptinenẽ in N. quas B. de eo tenuit, et quæ ad ipſum C. reuerti debent tanq̃ eſchaeta ſua, eó quód præd̃ B baſtardus fuit, et obijt ſine hæred', vt dic' &c.

Aliter ratione felonie: quas de eo tenuit et ad ipſum C. reuerti debent tanq̃ eſcaeta ſua, eò ꝙ præd̃ B. felon̄ fecit, pro qua ſuſpenſus fuit, vel vtlagat fuit, vel ſic. pro qua regnum noſtrum abiurauit. Et niſi fecerit, tunc ſum̃ &c. Teſte &c.

THis writte may be formed in manie maners: for if the verie tenant of any Lord ỹ holdeth any tenement of him without meſne make felonie, for the which he is hanged, or forſwere the kings land, or if he be beheaded, or outlawed, or vanquiſhed by battaile to death, or if hee be baſtard and dye without

heire of his bodie, or die without heire generall or speciall: then if any man enter in those lands or tenements, the chiefe lord of whom he holdeth, after a yere and a day of the felonie made, may recouer the tenements aforesaid by this writt of Escheat according to his case, as it appeareth in the Register. And the Proces is in this writ, Somons, grand Cape and petite Cape. And against the Iurors Venire facias, Habeas corpora and Distres.

But if the tenant in taile, tenant in dower, tenant by the curtesie, or tenant for terme of life make felonie, for the which hee is attainted (as is afore said) the King shal haue the Escheat during their liues, and after their deathes, he in the reuersion shall sue to the King by petition, and shall haue the said landes out of the Kinges hands, and not the Lord by way of Escheat, for that, that the sayd tenants are not verie tenants to the Lord: For none is called verie tenant, but tenant in fee simple. Nor hee in the reuersion may not haue the land during the lyfe of such tenants, for that, that the land is geuen to them by the law during their liues without any such forfaiture to him in the reuersion, but the king shall haue the land, as afore is said, for the haynous act committed against his law.

And note ye, that in magna Charta cha. 22. which beginneth, Nos non tenebimus &c. with that if the tenant in fee simple make felonie &c. the king shall haue the lands for a yeare & a day, & after to be yelded to the chiefe Lord

immediat

immediat. And the kings prerogatiue ca. 17
wil that the king shall haue such lands for a
yeare & a day, & after the tenements shall bee
walked & distroied, that is to say, houses, gar-
deins, woods, & euery other thinge belonging
to the said tenements, & after they shalbe de-
liuered to ỹ chiefe lords, except those tene-
mẽts ỹ are in Glo. & Kent in gauelkind, & ỹ is
by custome: for those tenemẽts shal reuert to
ỹ next heir, as if no felony had ben made. And
note ye, that if tenant in fee simple be attain-
ted of felonie & dieth, his wife shal not be en-
dowed, nor his heir inherite: but if ỹ tenant
in taile be attainted of felony and dieth, his
heire shal inherite, for that, that he is helped
by the statute of westm. 2. ca. 1. ỹ wil that by
deed nor by fefement, the heir in tail shal not
be barred: but in that case ỹ wife shal not bee
endowed, for that, ỹ she hath no action at the
common law, nor yet helped by the statute.

Note ye, that where a man is outlawed
for felonie, euerie action ỹ he hath for catals,
goods & inheritance, the right thereof is ex-
tinguished in his perso, & he is not answer-
able: but if he purchase his Charter of par-
don, and purchase other lands after in fee, it
is said that his issue shal inherite, but if hys
heire do a felonie, and for the same outlawed
in the life of his father, & after the death of
his father he purchase his charter of pardon,
yet he shall neuer inherite, for that that the
blode betwixt hym and his father at one
time was corrupted. And note ye, that if a

man be outlawed for trespas, he shall neuer be aunswered in any action personall vntil such time, as he hath purchased his charter of pardon: but in any plee real, to say that he is outlawed of trespas, that is not to the action, but to the person, as Excommengemēt is. And know ye, that a man shall not haue his charter of pardon for personal trespas allowed, except he sue a Scire facias out of the record against the partie, at whose suit he was outlawed, or know wherefore his charter of Pardon should not be allowed, and that is geeuen by the new Statute of Ed. the 3. Anno 5. chapter 12.

And note ye, that if a man be beheaded for felonie by iudgement, the Lord shall haue a writ of Escheat, and shall say that he was hanged: and it shall be no trauers to say that he was not hanged, and that was iudged in the Parlyament. An. 8. E. 3.

In a writ of Escheat, the writ was challenged, for that, that hee supposed, that hee that made the felonie held of the father of the tenemundant, whose heire hee is, where the writ should be, quod de eo tenet, for that that after the death of his auncestor, whose heire hee is, he was tenant to him because of the seigniorie discended: and not allowed. P. 46. Ed. 3.

If a man hold two acres of land of a man by seuerall services, & dieth without heyre, it is conuenient for the Lorde to haue two writts. And if a man hold of me 2. acres of land, and afore the statute he make a feoffe-

ment

ment of one of them to holde of him by .vi.ō. and died without heire. I shall haue a writ of escheat supposing that he holdeth of me .ix. acres & .vi.ō. of rent & yet in dede he holdeth the land of me, and the cause is for that, that they of the chauncery will not graunt a writ of any forme. E.14.H.7.

In a writ of Escheat, it is no plee for the tenaunt to say that hee, that the defendaunt supposeth to be seised, that hee died not seised of the land, but it is a good plee to say that he died not his tenaunt, and that issue shalbe taken vpon that. M.2.H.4.

And by the same reason hee may say, that he holdeth not of him. M.37.H.6.

In a writ of Escheat it is not conuenient for the demaundant to shew in his declaration, for what felony his tenant was attainted E.3.E.2.

And if he shew any record to proue the attainder, and errour is in the record, it is not materiall. M.14.E.3.

If my tenant be iudged to bee hanged and after is deliuered to the ordinary, I shal haue a writ of Escheat. H.34.E.3.

In a writ of Escheat, the defendaunt may make discent from his aunceſtour to him. M.13.E.2.

Note yee: that if rent seruice bee giuen in taile, and the tenaunt in taile discontinue in fee, and the tenaunt attourne and died without heire, so that the land escheat to the discontinue, the tenaunt in taile died without issue, the donour shal haue a writ of Escheat,

and

and not a Formedon in the reuerter. H. 33. E. 3.

By the opinion of Parñ and Trew, that a a writ of Escheat lieth not of rent, and that appeareth in a writ de Iectione custodie. H. 13 E. 3. T. 11. H. 4.

In a writ of Quare se intrusit maritagio non satisfacto, the opinion is that a rent lyeth in tenure. H. 4. In. 10. H. 6.

The lord and the tenant are, the tenant let his land for terme of life yelding certaine rent, the tenant hath issue & died, the lesse paide to the heire, and the heire paide the seruices to the lord, as his tenant and make felonie: for the which he is hanged, the lorde shall haue a writ of Escheat: for that, that he was seised by the hands of him that was attainted as by the hands of his verie tenant. M. 26. E. 1.

Note ye, that if the disseisie be attainted of felonie, the lord may enter in the land. T. 6. H. 7.

A writ de Conuentione.

REx vic' salutem. Præcipe A. quod iuste &c. teneat B. conuentionem factam inter ipsum A. & S. patrem prædicti B. cuius hęres ipse est, de vno messuagio &c. (vel sic) inter I. patrem vel matrem, vel fratrem vel sororem, auunculum, amitam, vel consanguineum prædicti A. cuius hæres ipse est. Et C. patrem prædicti B. cuius hæres ipse est. Et nisi &c. tunc sum, Teste &c.

This writ lyeth where couenant is made by indenture sealed betwixt two parties, and the one of them hold not couenant, then he

he that fæleth him græued ſhal haue the ſaid writ. And alſo if landes or tenements be let for terme of life, or for yeares by indenture, or if the leſſor put out the tenant, or if the tenant perfourme not the couenants, he that fæleth him græued, ſhall haue the ſaid writ. And note ye, that no writ of couenant ſhall be maintained without writing. And the proces is Sommons, Attachement and Diſtres, vntill the partie come, for default of diſtreſſe proces of vtlawrie. And the writ of Couenant may be pleaded in the countie, or before the Iuſtices of the cõmon banke, & may be pleaded by the ſame delayes, as a writ of treſpas may. And note ye, that a writ of Couenant lyeth not but betwixt thoſe that are parties to the Couenant, or their heires or their aſſignes, as the writ will.

Note ye, that this writ ought to be, that the defendant ought to hold couenant of ſo much land, and not general, as of all ỹ lands let to him, and the writ of Couenant, for leuying of a fine, ſhal be certaine of what land Ỹ.46.E.1.

In couenant the writ was to hold couenant of a meſuage and an hundred acres of lande in N. and the Indenture was of all the landes and tenementes in N. the writ did not abate for the variance. Michaelis 47.E.2.

Note ye, that if a man let lands in Wids by indenture ỹ are in another countie, if the leſſee be put out, he ſhall haue this action of couenant where the leaſe was made, or in the

the countie where the land is, notwithstanding that the deede beareth date where the leafe was made. T. 27. H. 6.

Note by the opinion of the court, that a writ of couenant lyeth not of free hold, if it be not of a speciall matter shewed, as if a disseisor let lands to me with warrant & binde him by Indenture, that if the disseisee enter and put me out, then I shall haue a writ of couenant, but if the lessour or any other that hath no right put me out, I shal haue a writ of Trespas. T. 26. H. 6.

Note ye, that in London a man shall haue a writ of Couenant without writing by the custome. T. 17. H. 6.

A writ de Dedimus potestatem de fine leuando.

REx dilecto et fideli suo A. de B. salutem. Cum breue nostrum de conuentione pendeat coram vobis et soc' vestris &c. inter VV. et H. de x. acris terræ, cum pertin in N. ad finem inde coram vobis in eodem banco secundum legem leuand' &c. ac præfatus VV. adeo languidus sit, et senio confractus, quod vsque VVestmonaster ad diem in breui prædicto contentum absque maximo corporis sui periculo venir non possit ad cogn, quæ in hac parte requiruntur faciend', vt accepimus, nos statum eiusdem VV. compatientes in hac parte, dedimus vobis potestatem recipiendi cognit quam prædictus VV. fac' voluerit in præmissis. Et ideo vobis mandamus, quod ad præfatum vv. personaliter accedentes cognitionem suam recipiatis. Et cum eam receperitis, præfat socios vestros inde sub sigillo ve-

stro

ſtro diſtincte & aperte reddatis certiores: vt tunc finis ille inter partes prædictas de terris prædictis in eodem banco leuari poſsit ſecundum legem & conſ. regni noſtri. Et habeas &c. Teſte &c.

THis writ lieth in caſe where two men are agreed to leuie a fine in the kings court, and the one of the parties is ſo feeble that he may not trauaile, then he may purchaſe this writ out of the Chauncery to one Iudge, or to two or mo, or to a ſeriеant ſworne to the king, rehearſing how the writ of couenant hangeth betwixt the parties, & he that hath purſued this writ of Dedimus poteſtatem, is ſo feeble that he may not trauaile &c. for to make the recogniſance betwixt them, and that the Iudge in his proper perſon go to the partie that is ſo feeble to receiue the recogniſance, and to certifie the Iuſtices of the common banke, and when they are comen with the recogniſance into the court, that the ſaide fine ſhall bee ingroſſed and inrolled. And in this writte is no proces, but where ſuch Iuſtices hath receiued the recogniſaunce in the maner aforeſaid, and will not certifie their felloweſ of the ſaid recogniſaunce, then the party that hath made the recogniſaunce may haue a writ directed to the ſame Iuſtices commaundinge them that they certifie their felloweſ of the ſame recogniſaunce vnder their ſeales, and to haue another writ directed to the Iuſtices of the common banke, that they receiue the ſaid recogniſaunce of them, as it appeareth by the Regiſter.

¶A writ

¶ A writ de Contributione facienda.

REx &c. Margaretę B. vel balliuis Margaretę B. de A. ſalutem. Cum de cõmuni conſilio regni nñ prouiſum ſit, quod ſi hereditas aliqua &c. de qua vnica tantñ fiat ſecta pro heredit̃ illa, ſicut prius conſuet̃ fuit, fiat debita contributio ad eãdem, ac VV. M. de N. cuſtod' ſcolarium de N. alijs quamplur̃ vendidet̃ terras & tenementa ſua N. de quibus vnica ſecta tantum ad curiam predictam de N. debetur: ſicut ijdem cuſtod' nobis monſtraueꝝ, vobis præcipimus, quod non diſtringat̃ cuſtod̃ niſi pro porcione ſibi & prefat̃ ſcolar̃ contingent̃ de terris & tenementis predictis ad ſeperalem ſectam faciendam ad curiam predictam, vel ad cur̃ predict̃ domini noſtri de N. contra formam prouiſionis prædictæ. Teſte &c.

¶ A writ de Aſsiſa nouæ diſſeiſine.

REx vicem̃ ſalutem. Queſtus eſt nobis A. qnod B. iniuſte & ſine iuditio diſſ. eum de libero tenemẽto ſuo in N. poſt primam transfr̃ domini H. regis filij regis Iohannis in Vaſcoñ. Et ideo tibi precipimus quod ſi predictus A. fecerit te ſecur̃ d̃ clam ſuo proſ. tunc fac. tenement̃ illud reſeiſir̃ de catall̃ quę in ipſo exit̃ fuerunt, et ipſum cum catallis eſſe in pace vſque ad proximam aſsiſam cum Iuſtic. noſtri in partes illas venerint. Et interim fac. xij. liberos & legales homines de vicin̄ illo videre ten̄ illud, et ſum̃ quod ſint coram prefatis Iuſtic. noſtris ad prefatam aſsiſam parati inde facere recogn̄. Et pone per vad & ſaluos pleg. prædict̃ B. vel balliuum ſuum ſi B. ipſe inuẽtus non fuerit, q̃ tunc ſit ibi ad illam recogn̄. Et habeas ibi ſum̃ nomina pleg & hoc breue, teſte &c.

¶ The

¶ The patent of the ſame writ.

REx &c. Dilectis & fideſ ſuis A.B.& C.ſalutem. Sciatis quod conſtituimus vos Iuſtic. noſtros vna cum hijs quos vobis aſſoc' ad aſsiſam Nouæ diſſeiſinæ capiēd quam A.arraiñ coram vobis per breue noſtrum verſus B.de tenemento in I. Et ideo vobis mandamus, quod ad certos diem & locum quos ad hęc prouideritis aſsiſam illam capiatis, facturi inde quod ad iuſtic' pertinet, ſecundum legem & conſuetudinem regni noſtri, ſaluis nobis amerciamentis inde prouenientibus. Mandauimus enim vicecomiti noſtro S. quod ad certos diem & locum quos ei Scire faciat aſsiſam illam coram vobis venire faciat. In cuius rei teſtimonium has literas noſtras fieri fecimus patentes Teſte,&c.

THis writ lieth where a man is diſſeiſed of his free holde.s. of landes, Tenementes, rentes, common of paſtures or ſuch lyke that hee holdeth for terme of life, fee taile or fee ſimple, or where hee hath lande or tensment that is deliuered to him by vertue of a recogniſance of the ſtatute marchaunt, or by ỹ ſtatute of the Staple, or by Elegit, as it appeareth by the ſtatute of marchaunts, or by the ſtatute of the Staple. In. 27. Ed. 3. Cap. 9. And by the ſtatute of Weſtm̃ 2. Cap. 18. thē the diſſeiſee ſhall haue the ſaide writ againſt the diſſeiſour, or againſt whoſoeuer is in poſſeſſion (liuing the diſſeiſor) and it is neceſſarie that the diſſeiſor bee named in the writ or otherwiſe the writ ſhall abate, and that is giuen by the ſame ſtatute of Weſtminſter ſecond. And note yæ, that if the Gardein or the chiefe

chiefe Lord make a feoffement to any man, of the lande that is of the heritage of him that he hath in warde to the diſenheritance of the warde, the warde maintenant may haue the ſaide writ and when the land is recouered, it ſhalbe deliuered by the Juſtices to the nexte friend of the infant, to whom the heritage may not diſcend, and to aunſwere the heire of the profites of the lande when hee commeth to his full age, as it appeareth by the ſtatute of Weſtminſter. 1. Cap. 47. which beginneth. Si Gardein &c. And looke ỹ ſtatute of weſtminſter. 1. Ca. 36. which beginneth. Purueu eſt enſemt & accord &c. howe a man ſhall bee puniſhed for diſſeiſon with robbery. Alſo, if the Eſcheatour, Shiriffe, or Bailiffe of the king, diſſeiſe any man by colour of his office without ſpeciall warranty or commaundement of the king: the diſſeiſe may recouer by the ſaid writ, and recouer double dammages: as it appeareth by the ſtatute of Weſtminſter 1. Capitulo. 24. which beginneth. Purueu eſt enſement que nul Eſchetour &c. And in what caſes that this writ lieth, looke the ſtatute of Weſtminſter. 2. Capitulo. 25. which beginneth. Quia non eſt aliud breue &c. And howe and in what time this writ ſhall bee taken, looke the ſtatute of Weſtminſter. 2. Cap. 30. which beginneth. Aſsign de cætero duo Iuſticiaſ &c. And in Magna Carta, Capit. 12. which beginneth. Recognitiones de Nouel diſſeiſin. And looke the new Statute of Ed. 3. Anſ. 2. Capit. 2. & 6. And in the Statute of Fines, Capitulo. 4. which beeginneth.

Item

Item cùm ſtatuimus &c. And in the ſtatute of Yorke cap. 3. which beginneth. Quod come ſil ſoit contenus &c. And the proces in thys writis Attachmēt againſt the partie, Summons, Habeas corpora and diſtreſſe againſt the Iurors vntill they come.

And note ye, that freehold is called, where a man holdeth land or tenement in fee ſimple, fee taile, or for terme of lyfe at the leaſt.

In Aſſiſe the writ was pone per vadium & ſaluos pleg. prædict̄ I. vel balliuum ſuum, quod ſit ibi auditur̄ &c. where it ſhould be, quod tunc ſit ibi, and the Court was in opinion to abate the writ, wherefore the plaintife was nonſuit. M. 26. H. 6.

Aſſiſe was brought by the huſbande and the wife, the parties were at iſſue, but not of the point of the aſſiſe, and was founde for the plaintifes how the wife was diſſeyſed afore the mariage, and that the huſband had nothing, ſo the writ was falſe, diſſeiſiuit eos, and notwithſtanding the plaintife recouered An. 44. Lib. Aſſ.

If there be iiij. Iointenants, and two diſſeiſe the other two, all fower brought Aſſiſe againſt two of them that were diſſeyſours: and the writ was diſſeiſiuit eos, ſo the writte ſuppoſeth that the two diſſeiſours diſſeiſed them ſelfes, and notwithſtandinge the writ was awarded good.

And if two Iointenants are diſſeiſed by a ſtraunger, and after the one come to the tenancie by purchaſe, if the other wyll recouer, it behoueth that both bee named, for

that, that the wordes of the writ may bee true, quod disseisiuit eos. But when one ioyntenant puteth out the other, this worde disseisiuit eos is false, for the one may not disseise hym selfe, therefore hee shal haue a writ in hys owne name. Ass 24. E. 3. Li. ass. pla. 9

In Assise, the tenant said that the playntyfe is his villaine, iudgement &c. the plaintife sayd that hee was free &c. and it was found that hee was free, but that hee was neuer seysed of such estate that hee myght be disseised, the plaintife sayd we are at issue out of the poynt of assise that is founde for vs, therefore they neede not to enquyre but of the dammages, and after it was awarded that he should take no thing by this writ. Ass. 31. E. 3. Lib. Ass.

And note ye, that assise may bee taken in iiij. manners, that is to say, at large, in the poynt of assise, out of the point of assise, and right of dammages. Assise at large is, when an infant bringeth Assise, and the deede of hys auncestour is pleaded, then the Assise shalbee taken to enquire at large, that is to say, if hys auncestour was of full age, of good memorie, and out of prysон, when hee made the deede. Assise in point of assise is, when the tenaunt pleadeth no wrong, nor no disseisin. Assise out of point is, when the tenant pleadeth a foreine release, or forreine matter tryable in another Countie, then the Iudges shall put the Record in the common place to trie thys foreine plee, and when that is tried, they shal send againe

the

the Assise. And in right of dammages is, when the tenant confesseth a putting out, and demurreth in law, the which matter is iudged against him, now the Assise shalbee taken in right of the dammages.

Note ye, if the Gardeyne of an infant take a feoffement of the infant beeyng in his warde, the infant shall haue an Assise, and the gardeyne shalbee aiudged a disseisor, and committed to pryson if it bee founde. Ah. 8. E. 2.

If my tenant be attainted of felonie, and the king graunt the yeare and the day to a straunger, if the straunger bee disseised, I shall haue Assise by al the Court.

And note ye, that seisin of fealtie is no seisin of the rent whereby hee may of that haue Assise.

If the tenant pleade a plee in barre, & the plaintife make title, and trauers the barre, though the title of the plaintife be false, yet the tenant shall not haue aduantage to take the Assise vpon the title, but he shalbe charged to maintaine his barre: Otherwise is, where if the plaintife make to him a title, & aunswere not the barre. H. 44. E. 2.

A man may be tenaunt of the rent by hys disseisine, as if he leuye the rent of my tenaunts by cohersion of distresse, but if the tenaunt pay to him the rent of his good wil, that shall not be intended the rent that I ought to haue, but another rent, for by such payment without other thinges doing, I shall haue no Assise.

If rent discend to me after the death of my father, and afore the day of payment of the rent, the tenaunt putteth me in seisin of the rent by an Ore, this seisin is not sufficient whereof I may haue Assise, but if he pay to me a peny as parcel of my rent, notwithstanding that it be afore the day of payment of this possession I shall haue assise, but if I recouer rent, and afore the day of payment, the Shirife put me in possession of the rent by an Ore, of this possession I shall haue Assise. P. 49. E. 3.

¶ A writ of Redisseisin.

REx Vic' salutem. Monstrauit nobis A. quód cum ipse in curia nostra corã Iusticiar' nostris tantum &c. vel coram dilectis & fidelibus nostris R. & E. Iustic' nostris ad assisas in Com̃ L. capiend' assign', per breue nostrum recuperauit seisinam suam versus B. de x. acris terr̃ cum pertin̄ in I. p recogn̄ Ass'. nouę disseis'. ibi inter præfatos A. & B. capt̃, præfat̃ B. ipsum A. de eadem terra iniusté disseisiuit. Et ideo tibi præcipimus, qd' assumpt̃ tecũ custod' placitorũ Coronæ nostræ, & xij. tám Milit̃ quám alijs liberis & legal' hominibus de comitatu tuo, tám de illis qui in prima iurata fuer', quám in propria persona tua accedas ad præd' terr', & per eorum sacramentum diligentem facias inde inquisic'. Et si ipsum A. per præd' B. de pred' terr̃ interim iniusté disseisitum inueneris, tũc ipsum B. capi, & in prisona nostra saluo custod' fac', ita quód á prisona illa nullo modo deliberetur sine mandato nostro speciali, & ipsum A. de pred' terra reseisire, & dampna sua in duplum quę occasione illius reddiss', sustinuit, per sacr̃m pred'

xij.

xij. taxari de terris et catallis præd' B. in balliua tua sine dilatioñ fieri, & eundē A. haber' fac' iuxta formam statuti VV. de hm̄odi reddiss. prouis. Et scire fac' præfat̄ B. quod inquisitioni illi faciend' interfit si sibi videret expedire. Teste &c.

This writ lyeth in case where a man is disseised, and he hath recouered by Assise, and is put in possession by the Shirife, and after that, is disseised by the same disseisour, he shall haue this writ of Redisseisin agaynst him, & that is geeuen by the statut of Merton cap. 3. which begynneth, Si quis diss. &c. And by the statut of Marleb. cap. 8. which begynneth. Illa autem qui prosterata disseisiñ &c. where it is said such persons are not repleuisable.

If a man recouer in assise against a woman sole, and after she put hym out, and take a husband, the writ of Reddisseisin shall not suppose that hee hath recouered against the husband and the wife, but the writ of Redisseisin shall suppose the Redisseisin to bee made by the wife when she was sole, and the husband shalbe named because of the maryage. Añ 9. H. 4.

Note ye, that vpon a recouery in Assise of fresh force, a man shall not haue a writ of Redisseisin. M. 14. E. 2.

But it is thought that a man shal haue a Redisseisin & post disseisin in London, where he recouereth by a writ of Right, & maketh his protestation in nature of Assise, for there are Coroners. M. 14. E. 3

Note ye, that if I recouer an acre of lande in D. by assise, to which there is a cōmon in

S. belonging, if J. be disseised of the common, J. shal haue a Redisseisin. M. 8. E. 3.

¶ A writ de Post disseisin.

REx Vic' salutem. Monstrauit nobis A. quód cum ipse in curia nostra coram dilectis & fidelibus nostris T. & socijs suis Iusticiar' nostris de banco apud VV. recuperasset seisinam suam versus S. de x. acris terr' cum pertinen' in I. per considerationem eiusdem cur', idem B. præfatũ A. de præd' ter' postmodum iniustè disseis'. Et ideo vt supra, sed non dicatur tám de illis qui in prima iurata fuerunt, quám de alijs vsq; interim, postmodum iniustè, &c. vt supra, semper dicatur postdisseisina in loco disseisinæ, vt supra. Teste &c.

THis writ lyeth as is ordayned by the statut of Merton, vpon a recouerie in Assise of Nouel disseisin, and by the statut of Westminster 2. cap. 26. which begynneth. In breuibus de Redd' &c. that a man that hath recouered by assise of Mordauncestor, or by other Iurie, or by default, or by reddition, or by any maner enquest. And if he bee put out of the same tenements by the same person against whom he hath recouered, then he shall haue a post disseisin and not a Redisseisin. Also if these tenaunts by Elegit, statute Marchant, statute of the Staple be disseised, they shall haue a writ of Reddisseisin: But in case that a man may disseise, and after I recouer by Assise, and am put in possession, and the same disseisour with another straunger put me out of the same lande, in this case I shall not haue a writ of Redisseisin,

diſſeiſin, for there is a tenant of parcel, that was not party to the aſſiſe, therefore I muſt haue a new Aſſiſe. And in caſe that the diſſeiſour be diſſeiſed, and a writ was brought againſt the ij. diſſeiſor, he ſhal aunſwere of ỹ damages, for his owne poſſeſſion: But the ſtatute of Glouc cap. 1. ſpeaketh not but in caſe where the diſſeiſour hath ſold.

And note ye, when a man arraigneth aſſiſe of Nouel diſſeiſin of a rent charge, it is conuenient that all the tenants of the tenements charged be named in the aſſiſe, and al the land charged put in view, notwithſtanding that hee was diſſeiſed but by one tenant, but otherwiſe is of rent ſeruice.

And note ye, that all aſſiſes of Nouel diſſeiſin, & Mortdauncestour, that goeth into the Countie, are retournable in the common bank, and if the kinges Bench be in another countie then the common bank is, then all the aſſiſes of Nouel diſſeiſin ſhalbe afore the the Juſtices of the bank, and afore the king ſhalbe put a certayne day, as vſqué ad diem Iunij in xv. &c. but in the Mortdauncestour common day may a man haue, as in other places, but in Aſſiſe of Nouel diſſeiſin afore the Juſtices, and afore the kynge, a man may put a day out of the Terme, as vſqué in diem Iouis poſt feſtum Sanctæ Luciæ, and geeue daye of fower dayes afore the kinge, and that wyll the Statute Articuli ſuper chartas capitulo 15. And in Aſſiſe of Nouel diſſeiſin a man ought not vouche no man if he bee not named in the writ, or bee

preſent in Court when he is vouched, but in a writte of Myordaunceſter a man may vouch at large.

If a man recouer lande by Scire facias by default, if hee be diſſeiſed by the ſame man afterward, he ſhall haue a poſt diſſeiſin, aſwell as if it were in a Præcipe quod reddat. C.15.H.7.

If a man recouer lande in value, and after is put out by the vouchee, the tenant ſhall haue a Poſt diſſeiſin, vt patet per Regiſtrum. Aſſ.5.E.2.

¶ A writ de Nocumento.

REx Vic' ſalutem. Queſtus eſt nobis A. quód B. iniuſtè et ſine iuditio p̄ſtrauit vel leuauit quoddam foſſatum in N. ad nocumentum teneme̅ti ſui in eadem villa, vt non poteſt transfr̄ &c. Et ideo tibi præc', quod ſi præd' A. fecerit te ſecurum &c. fac' xij. liberos & legales homines de vicinet̄ illo videſ foſſatum illud vel ſtagnum illud & teñ, et nomina eorum imbreuiari. Et ſum̄ illos per bonos &c. qđ ſint coram Iuſticiar̄ noſtris ad primam aſsiſam cum in partes illas venerint parat̄ facer̄ recogn̄, et pón per vadium et ſaluos plegios predictum B. vel Balliuñ ſuum, ſi ipſe inuentus non fuerit, qđ tunc ſit ibi aud' illam recogn̄. Et habeas ibi ſum̄ nomina pleg. Et hoc breue. Teſte &c.

This writ lyeth where a man leuyeth or maketh a houſe, and wall, or gutter in his lande, or any ſuch like to the nuſance of the freholde of his neighbor, then hee to whom the nuſance hath bene made, ſhal haue the ſaid writ. And alſo if hee that hath made the

the nusance sell the land, whereof the nusance was made to a straunger, then thassise shalbe brought against both .s. against hym that made the nusance, and against hym to whom the lande is solde, and that is geuen by the statute of Westm 2. cap. 24. which beginneth. In quibus casibus &c. before whych statute assise of Nusance did not lye, but onely against hym that made the nusance. And the proces is as in Assise of Nouel disseisin.

And note ye, that if the nusance be made in one Countie, and the tenement is in another Countie, then the writ shalbee brought in that countie where the nusance was made. And also if the Assise of Nouel disseisin bee arraigned in one Countie, and of the same tenementes another assise is arraigned in another Countie, a man can pleade nothing but suffer both assises to passe, and if they say bothe that these tenementes are in one Countie, then it is wel, and if they varie so that the one say, that the tenements are in one countie, and the other say that they are in another countie, then he ought to cause al the Assises to come afore the kinge, and that was iudged Anno 9. E. 3. betwixt Richard Clyfforde and Henry Fitz Hugh.

And note ye, that in many cases assises of Nusaunce lyeth, as it appeareth by these two Verses.

Fons, stagna, sepsq;, via, diuersus cursus aquarum,
poscunt assisam, mercatum, feria, bancum.

¶A

¶A writ de paruo Nocumento.

REx Vic' ſalutem. Queſtus eſt nobis A. quód B. iniuſté et ſine iuditio leuauit quandam fabricam in N. ad nocumentum liberi tenementi ſui in eadem villa, poſt primam transfr &c. Et ideo tibi præc', quod loquelam ſuam audias, & poſtea eum inde iuſté deduc' facias. Ne amplius &c. pro defectu iuſtitiæ. Teſte &c.

This writ lyeth where a Mill or ſuch like is leuyed to the nuſance of his neyghbor, he to whom the nuſance is made ſhall haue the ſaid writ, and it is bycontiel, and pledable in the Countie. And this writ may be remouable out of the countie into the common bank at the ſuit of the plaintife wythout cauſe in the writ, and at the ſuit of the tenant with cauſe, as in the pone de auerijs repleg'. And hereof may be made a writ of Execution of iudgement if neede be, but if he that made the nuſance dye afore the Aſſiſe purchaſed, then he to whom the nuſãce was made, or his heire ſhall haue a writ of Quod permittat againſt the heire of him that made the nuſance. And ſo a Quod permittat lyeth al times in place of a writ of Entre grounded vpon diſſeiſin, or abatement, after the death of him that made the nuſance.

And note ye, that there be other writs that are called little writts of diſſeiſin that are bycontiel, and pledable in the Countie afore the Shirife, that are De domo iniuſté leuata vel proſtrata & conſimilibus, vt patet per Regiſtrum, & what maner of nuſance are pledable in the countie it appeareth by theſe verſes.

Fab.

Fab. fur, porta, domus, vir, gur, mole, murus, ouile,
Et pons, tradantur hęc vicecomitibus.

Two coparceners are seised of a meadow and a Myll, and they haue a way from the myll vnto the water of the same myll, ouer the meadow, & they make partition, so that the mill is allotted to the one coparcener, & the meadow to the other, & vpon the partition it is agreed, that he that hath the myll shal haue the way to the myll ouer the meadow, if the other to whom the meadow is allotted leuye a ditch in the meadow whereby he is put out of his way, he shal haue assise, for he may not haue the profit of the mill wout the way, wherefore thaccord is good without writing, as rent reserued vpon a partition without writing &c. H. 21. E. 3.

Note ye, that if a man ought to repaire a bridge, ouer which I haue a way belonging to my manor of Dale, and he that ought to repaire ꝑ bridge make no reparation whereby I cannot haue my way, I shal haue an action vpon my case, and not assise, for where a man ought to make a thing and makes it not, I of his laches shall not haue assise, but where a man maketh a thing by mainor, or leuying or stopping, in such case I shall haue Assise &c. if a man bee holden to scour a ditch, that the water may haue course, and he make it not, whereby my meadow is surrounded, I shall haue a writ of Trespas, but if hee stop that, that is vnclensed, I shal haue Assise. T. 11. H. 4.

qA

¶A writ de Attincta is such.

REx Vicec' salutem. Si A fecerit &c. tunc sum̃ &c. xxiiij. legales homines de vicin̄ de N. quod sint coram Iusticiarijs nostris apud W. tali die, vel ad primam assisam &c. parati sacro recognoscere si iur' per quos quædam inquisic' nuper capt̄ fuit coram Iustic' nostris apud VV. per breue nostrum &c. qđ fuit inter A. petentem & B. tenent̄, falsum fecerunt sacramentum sicut idem A. grauiter nobis conquerens monstrauit. Et interim diligenter inquiras qui fuer̄ iuratores, per quos inquisitio capta fuit. Et eos habeas coram præfat̄ Iusticiar̄ ad præfatum terminum, vel ad præfatam assisam. Et sum̄ per bonos summonit̄ præfat̄ B. quod tunc sit ibi auditurus illam recogn̄. Et habeas ibi sum̄ nomina prædictorum hominum, & hoc breue. Teste &c.

THis writ lyeth where an Enquest hath made a false verdict whereof they bee attainted by thys writ they shall haue such paine. ſ. their meadowes shalbee eyzed, and their houses pulled downe, and their woodes distroied, and all their landes and goods forfayted to the king, but if the writ passe against him that bringeth the writ he shalbee imprisoned and greeuously raunsomed at the kinges pleasure. And the proces is against the partie Summons and resummons. And against the partie Iurors, Venire facias, and a distres. And against the graunde Iurours, Summons, Habeas corpora, and distres. And in how many maners a man may haue Attaint, loke the statute of Westm̄ 1. cap. 37. which beginneth. Pur ceo que ascun gents &c. that a man shal haue Attaint in plee of land,

or

or of a thing that toucheth freeholde. And now by the new statut of Añ 1.E.3.cap.6. is ordayned, that Attaint shalbe graunted in a writ of Trespas, aswel vpon the damages if they passe xl.s. as vpon the principal. And also the statut made Añ 1.E.3.cap.7. that Attaint is aswell in plee personal as in plee reall, and to be graunted to poore men without fine, and the Chauncelor hath power to graunt this writ without sueing to ye king. And that the Justices let not in no case of attaint delay to take the attaint for the damages not paied. And by the statut made at Westm̃, Añ 1.E.3.cap.7. in the ende, a man shall haue a writ of Attaint in plee of Trespas moued afore Justices that are of Record without writ, if the damages iudged passe xl.s. And after by the statute made in the time of the same king, Añ 28.cap. 8. a writ of Attaint shalbe graunted aswell vpon a bill of Trespas, as vpon a writ of Trespas, hauing no regarde to the quantitie of the dammages. And also the attaint shalbe grãted to poore men that will swere that they haue nothing whereof they may make fine, Sauing their countenance, without fine, as to other by a reasonable fine. And by the statute of Añ 24.E.3.cap.7. And also by the statut of Añ 9.R.2.cap 3. is geeuen, that he in the reuersion lyuing his tenant for terme of lyfe, shall haue Attaint.

Note ye, ye a writ of Entre was brought in Sussex, and the tenant pleaded the deede of the auncestour of the plaintife made in

Lon=

London, which was denyed, and found of the plaintife in London, and vpon that the tenant brought Attaint in London to summon xxiiij. and to attach these xij. and another writ to the Shirife of Suller to attach the partie, where the land was, and the writ that was directed to the Shirifes of London was challenged for that, that it is not compriſed in the writ that the partie ſhalbe attached & not allowable, for in a new caſe a new remedie ſhalbe prouided. M. 18. E. 2.

Attaint was brought againſt I. S. as ſonne and heire, vpon a falſe verdict geeuen betwixt the plaintife and the father of the ſaid I. S. in a Precipe quod reddat, & the writ was challenged, for that, that it is not proued by the writ that he is tenant, & for that, that euery attaint in him ſelfe is ſummons, the writ ought to haue bene, Sum one ſuch, and not allowed, for the writ ſhalbe brought againſt the father without any ſummons againſt him, for that, that the law intendeth that the tenancy continueth in him, and this action is formed vpon the firſt recorde, and by the ſame reaſon it ſhalbe intended, that it diſcended to the heire, and that he is tenant, wherefore aunſwere. M. 31. H. 6.

One that was vouched brought Attaint againſt thoſe that paſſed vpon a deede denied, and the writ will, that one I. S. tenaunt vouched to warrant, and the writ was abated, for that, that the writ ſuppoſeth not that the vouch. hath a warrant of the tenant by expreſſe wordes, yet it is ſuppoſed by theſe wordes,

wordes, placitando protulit that he hath a warrant, but that, that it should be put in the writ by expresse wordes may not be maintened by supposell. P.22.E.3.

Note ye, that one may haue Attaint, a writ of Error, and Disceipt afore execution, for the mischiefe that he will not sue execution vntil such time that the petit Jurie or summoners and beyors be dead, and then to sue execution when he may not haue the actions, and of this mischiefe he shal haue them afore execution. M.21.E.3.

If a writ be awarded to the Shirife by default to enquire of wast, it is saide that the parties shall haue their challenge afore the Shirife, & also Attaint, if the Jurie make a false verdict, qd' non credo, Quære. Fi 10. H.4

Note ye, that no man shal haue Attaint in apeale of Mayhem, nor in any other apeale of felony, or of the death of a man.

Note ye, that if a man be indicted of trespas, and found gyltie by another enquest, thee shall not haue Attaint, for that, that exiij. hath founde hym gyltie, and both the verdictes agree.

In trespas against two, the one appeareth and is founde giltie by one enquest, & the other by another enquest, he that was found giltie by the later enquest shal haue Attaint, notwithstanding that he is a straunger to that, for that, that he is in dammage by that, for the first enquest shall taxe the dammages and not the second enquest, & of those dammages he shal haue Attaint. P.44.E.2.

Attaint

Attaint was brought, and he assigned the false verdict to be in .ij. thinges, where as it appeareth to the Court that he hath no cause of action, for the one, and by the aduise of the Justices it was holden, that the party shalbe barred of that, and the remnant to stand in his force. T.26.H.6.

The iudgement in Attaint is, when it is founde for the plaintife, that the verdict is false, the iudgement reherseth the points &c. Wee awarde that the plaintife shall haue againe his lande and those damages that he lost in the Assise, and the profits had in the meane time, and that the tenant shalbe taken and the petit Jury shal lose free law, & their goodes forfaited, and their tenementes dystroyed, and all their landes and tenements seyfed, and their meadowes eyred, and their woodes distroyed, their wyues & infants of their houses put out, and that they shalbe taken. M.11.H.4.

¶A writ de Certificatione nouæ disseisinę.

REx Vic' salutem. Quia super quibusdam articulis noue disseisinæ contingen', quæ inter A. & I. sum fuit & capt' apud I. per breue nostrum, coram dilectis et fidelibus nostris H. & R. de tenemento in I. quedam subsunt dubitationes sicut ex querela ipsius I. accepimus, constituimus præfatos H. & R. Iusticiar' nostros vna cum hijs, quos sibi associauimus ad certificationem super articulis prædictis capiend'. Et ideo tibi præc', qd' ad certos diē & locum quos eidē H. et R. tibi scire fac' iuratores illius assisæ coram eis Venire fac' ad certificād sup articul' p̄dict'.

Et

Et ſum̃ per bonos ſum̃ prædict' A. quod tunc ſit ibi auditurus illaꝝ certific'. Et habeas ibi ſum̃ nomina iuraꝝ & hoc breue &c.

THis writ ſpeth where aſſiſe is brought againſt a man and he anſwered by bailye, and the bayiye commeth into the Court excuſing the abſence of his maiſter, and pleade in abatement of the writ or faith, no wrong, ne diſſeiſin, for he may not plede any releaſe, or writing in barre of action, then if the tenãt loſe in his abſence by aſſiſe, if he hath any releaſe or other writing that wil make for him he may come afore the ſame Iuſtices, afore whom the aſſiſe was taken and ſhewe hys right by releaſe, or other writing, and if the Iuſtices may ſee that the plaintife in the aſſiſe might haue bene excluded of aſſiſe, if the ſaid releaſe or writing had bẽ ſhewed afore the iudgement in the Aſſiſe geuen, then the ſame Iuſtices ſhal ſend a ſcire facias to the ſhirife of the County where the aſſiſe was araigned, that he warne the party that firſt recouered to bee afore them at a certaine day. And alſo that he ſhall cauſe the firſt Iurors to come that were firſt ſworne in aſſiſe, and then if it may be founde by verdict of the Iurors or by inrolment, that the ſaid writings are true, that he that purchaſeth the ſaid aſſiſe ſhal yelde double damages, as it appeareth by the ſtatute of Weſtm̃ 2. cap. 25. which beginneth: Quia non eſt aliud breue &c. And in caſe that the Iuſtices or any of them afore whom the ſaid Aſſiſe was firſt taken dye or be remoued, then the party if he haue any releaſe

leaſe, as afore is ſayd may haue the ſaid certification, which ſhalbe patent directed to the new Iuſtices reherſing al doubts touching the aſſiſe that was taken afore the firſt Iuſtices commaunding them that they take the ſayd certification at a certaine day & place, & ouer that a Precipe directed to the ſhirife of the ſame county, that hee ſommon the ſame party that firſt recouered. And alſo that hee cauſe the firſt Iurors of the aſſiſe to come afore the ſaid newe Iuſtices at a certaine day & place, to certify the ſaid Iuſtices of the ſaid doubts as it appeareth by the Regiſter. And alſo this certification may be taken in the kings benche, or in the common place, & then no patent ſhalbe made as is in aſſiſe of Monel diſſ. by which certification, aſwel in the one caſe as in the other, the iudgement ſhalbe reuerſed, & in caſe that the party be warned, and come not at the day aſſigned, hee ſhall loſe the land by default. And if he come at ỹ ſcire facias, the plee ſhal paſſe betwixt them, and if he that recouered by aſſiſe can nothing ſay againſt the releaſe, then the tenant that loſt by the aſſiſe ſhal recouer. And the proces is againſt the Iurors a venire facias, Habeas corpora, and diſtreſſe infinite, but this writ lyeth, but where it may be founde by record, & by the rolles, then thinqueſt that palleth in aſſiſe ſpeake nothing, nor made mention of ỹ releaſe or other writing in their verdict, but if thenqueſt make mention of the releaſe or of their writing, & they gene falſe verdicte notwithſtanding the releaſe, then the party

againſt

againſt whom they paſſed may haue attaint againſt the Iurours. And if the Iuſtices geue falſe iudgement where theſe Iurours made mētion of the releaſe, and putteth their verdict vpon the iudgement of the Iuſtices, and that may bee founde, then the ſayde partye may haue a writ of Error and the iudgement ſhalbe reuerſed. And if it be found that the releaſe is good, the party ſhall recouer, and if not, the other ſhall holde in peace, & that is geuen by the ſtatute of Weſt. 2. cap. 25. which beginneth: Quia non eſt aliquod breue &c. And in caſe that the aſſiſe paſſe in abſence of the party, and after the party commeth, & ſheweth to the Iuſtices any releaſe as is afore ſaid, and the Iuſtices delay to do after the ſaid ſtatute, then the party may haue a writ directed to the ſame Iuſtices in which writ the ſaid ſtatute ſhalbe reherſed, cōmanding them ỹ vpon the ſight of the ſaid writ that they make full Iuſtice to the foreſayde partye, as it appeareth by the Regiſter. And this writ in this caſe ſhalbe in place of a certification. And note ye that by ỹ ſame ſtatute if the party defendant in aſſiſe of Nouel diſſeiſin alledge in delay of the party plaintife, that aſſiſe another tyme paſſed betwixt the ſame parties of the ſame lands, or ỹ the ſayd party plaintif was nonſuit in a writ of higher nature hanging betwixt thē of the ſame tenement or that the ſaid plaintife was nonſuit in ſuch like writ, & proffereth to verifie ỹ of record, in this caſe if the ſame party faile at his day of the record, he ſhalbe iudged as

diſſeiſour, without triall of the Aſſiſe, and the Aſſiſe taken in the ryght of the dammages &c.

If a recouerie be in aſſiſe, and after the tenant in the Aſſiſe ſue a certification vpon a deede, and a Scire facias againſt the party that recouered to bee at a certaine day &c. and a venire facias in the ſame writ againſt the xij. Iurors that were ſworne in the Aſſiſe, and the ſhirife returned that two of the Iurors are dead, quare if he ſhall haue a certification or not, for that, ꝑ the ſtatute is, that it ſhalbe tried by the firſt Iurors, but not by all the Iurors, and it was ſaide that there was a certification at the common laſwe afore the iudgement geuen: if the matter bee vpon a deede bearing date in a forein county, it ſhall be tried by other, and not by the firſt iurors. Aſſi. 12. H. 4.

¶ A writ de Aſſiſa mortis anteceſſoris.

REx vic' ſalutẽ. Si A. fecerit te &c. tunc ſum̃ &c. xij. liberos & legales homines de vicin̄ de A. quod ſit coram &c. tali die &c. parati ſacramento recognoſcere, ſi B. ſeñ pater prædict̃ A. fuit ſeiſitus in dominico ſuo, vt de feodo de vno meſ. cum pertineñ in N. die quo obijt. Et ſi obijt poſt coronationem domini H. fil' regis &c. Et ſi idem A. propinquior heres eius ſit. Et interim prædictum meſuag. videant & nomina eorum̃ in breuiar' facias, & ſumm̃ per bonos ſum̃ prædict̃ B. qui meſ. prædict̃ tenet quod tunc ſit ibi aud' illam recogn̄, & habeas ibi ſum̃, & hoc breue. Teſte &c.

This

This writ lyeth where my father, mother, brother, sister, vncle, or aunt died seyled of landes or tenementes, or of rent, that they haue in fee simple, and a straunger abate, then I that am next heire shall haue this writ against the abator, or against whosoeuer that is in possession, after the death of mine auncestor. And the proces is in this writ as it is in a Iuris vtrum. And note ye that if an Infant bee in warde of his lorde, and after he cõmeth at his full age, the lord will not yelde to him his land without plee, then y Infant shall haue this writ & that is geuen by the statut of Marl. cap. 16. which beginneth: Si heres aliquis &c. but if he be of full age after the death of his auncestor, & is in his heritage, and knowen for heire, & the lord entet vpõ the heire, and hold him out, then he shall haue the foresaid writ, & recouer damages, as in Writs of Nouel disseisin. And note ye: that by the statute of Glos. cap. 6. It is ordained, that if a man dye seised of certain lands or tenements in fee simple, and hath many heires, whereof one is sonne, daughter, brother, sister, nefewe or neece, and the other bee in no more longe degree, if a straunger abate, all those heires together shal haue the foresaid writ but if y heire be not one of them aboue named, they are put to their writ of Ayle, or Cosinage as their case lyeth. And note ye: that if an infant purchase a writ of Mordauncestor, he ought to find no suretye, & for that he shal not lay in this writ si talis fecerit secus &c. And note ye: that the statute of Westm. 1. cap. 22. which

wginneth: Des heires males &c. that if any lord withhold these heres females vntill they were vnmaryed, because of couetеousnes of the land, then the heire may recouer her heritage by the foreſaid writ of Mordaunceſtor. And note ye: that a man may haue a certification & aſſociation to the ſaid writ.

Note ye: that a writ of Mordaunceſtor was of a common forme, In dominico ſuo vt de feodo die quo obijt: and the tenaunt ſaid that his aunceſtor of whoſe death hee bringeth this writ went ouer the Sea towards ſaint James: the which aunceſtor is not yet come againe, therefore the writ ſhal ſay: Die quo iter &c. wherefore the writ was abated, and the demaundant would haue auerred the death of his aunceſtor, & ſould not be receiued, for that, that another writ is geuen in the caſe. M. 16. E. 3.

The writ of Mordo was Sum̃r. &c. de viſn vill de Dale &c. parati &c. ſi obijt ſeiſitus de octo pedibus in longitudine, & vj. in latitudine, & duabus partibus vnius meſuag. et medietate pertin̄ vnius meſuag. in villa de Dale &c. interim meſ. terras et tenementa videant̄. And the writ was challenged: for that is was De octo pedibus &c. for it ought to be of a place that contayneth ſo much, ſo the principal demaunde ſhal be of the place, and not of ſo many footes, & alſo the writ ought to bee, that theſe twelue of the Aſſiſe ought to bee of the ſame beneſh where the demaunde is made, and now is the one of the beneſh of the Towne of Dale, to ſomon the Jurors, and the ſeconde

is

is in the towne of Dale: & also in ỹ demaũd, the lande is first in demaund, & after the mesuage &c. & in the clause to make the benewe the mesuage is first named, but the exception was not allowed as the first challenge, for a man shall not haue a writ to demaunde a place that is not certeine, & as to the seconde point the fourme of the writ is such & may not be intended diuers townes, & as to the third point, that is whole in ỹ demaund shall be first named, and then the halfes, but when the benewe ought to be made and the whole mesuage to be put in view, ỹ forme is to put the mesuage afore ỹ land, & a writ of another forme may he not haue, wherefore the writ was awarded good. H. 16. E. 3.

In assise of Mordauncestour, if the tenant pleade a feoffement of the auncestour of the demaundant in barre, he ought to trauerse the dying seysed, but if he pleade a recouery, or a fine leuyed by the auncestor, hee ought not trauerse the dying seysed, for that, that the demaundant is stopped to say against the recorde that he died seysed without shewing howe after the recouerye M. 7. E. 3.

In assise of Wortõ the tenant pleaded a recouery in assise had against ỹ plaintif selfe, and for that, ỹ this disproues the estate that the plaintife hath after the death of his auncestor, the opinion of the court was that it is no barre. M. 27. E. 3.

A. was endicted of felony, & one D. as accessory, & vpon the Cape the shirife returned

that B. nō potest inueniri, and that the said D. was taken, and he pleaded not guilty, and he was found guilty, and hanged, & the lorde by Escheat entred, & after the said B. was take & brought to the barre, and after was found not guilty, & the heire of the sayd D. brought assise of Mordauncestor against the lord by Escheat, & shewed al this matter, and after was awarded that the said heire should recouer seisin of the land: for that: that if the said D. were on liue, that he shoulde be acquited by the acquitall of the said B. and that he can be no accessory of felony when there is none. M. 33. E. 1.

¶ A writ de Auo is such.

REx vicecom salutem. Precip A. quod iuste &c. reddat B. vnum mes. cum pertinen in N. et aduocationem ecclesiæ eiusdem villæ, de quibus C. auus prēd B. cuius heres ipse est fuit seisitus in dominico suo, vt de feodo die quo obijt, vt dic'. Et nisi fecerit et prēd B. fec. te secur &c. tunc sum &c. Et habeas &c. Teste &c.

THis writ lyeth where my graundfather dyed seysed of lande, tenement, or rent in fee simple, and a straunger doth abate, then I shall haue against him this writ, or against his heire, or his alienee, or against whosoeuer that commeth to the said lands and tenements in what manner soeuer he is in. And in the same maner lyeth a writ of Cosinage, that is to say, where my graundfathers father, or mye great graundfathers father, or other Cosin, and so to the ix. degree that died seysed in fee simple, & a straunger enter, I

shal

shal haue a writ of Cosinage, and not a writ of Aile: for that: ꝑ it passeth the writ of Aile. And note ye, that a writ of Cosinage lyethe in the discent lineal. And it is to know that the lineall discent is from the father to the sonne, but if the lande discend from the sonne to the vncles sonne vpon abatement, he shall haue a writ of Cosinage. And note ye: that assise of nouel disseisin, Mordaūcestor, Aile, Cosinage and Nuper obijt, are onely writs of possession, and not myxt with the right, but assise of Nouel disseysin is of his owne possession. And the other are of the possession of the auncestor to whom he is next heire. And note ye, that a mā shal recouer no damages in the said writs but in those that dammages are geuen by statute, or by ꝑ cōmon law, & of damages loke in the statute of Glocr cap. 1. And ꝑ proces in this writ is, Somōs, Grād Cape, & petit cape &c.

A general writ of Ayle was brought, & it was challenged, for that, that his auncestor died not in England, but toke his iourney toward the holy land, & came not again, in which case he shal haue a like writ, as he should haue in assise of Mordauncestor, but ꝑ exception was not allowed, for it hath not ben seene in a writ of Aile. M. 13. E. 2.

The writ of Aile was precipe &c. quod reddat vnam bouatam terre et vnam bouatam Marisci, and the writ was abated, for that, that the organge is alwaies of a thing that lieth in gainor. M. 13. E. 3.

In a writ of Ayle, a releale was pleaded

of

of the same grandfather with a warranty, & the opinion of the court was, that ꝑ was no barre, except he say without that, that he died seised, & so it was pleaded. H. 13. H. 4.

¶ A writ de Nuper obijt.

REx vic' salut. Si A. fecerit &c. tunc sum &c. B. ꝙ sit coram Iustic' nr̄is &c. tali die ostens' quare de forc' prefat' A. rationabilem partem suam, que ei cōtingit de hereditē, q̄ fuit I. de N. pr̄is sui, fratris, sororis, aui, auie, auunculi, amitæ, consanguinei præd' A. & B. cuius heredes ipsi sunt. Et qui nuper obijt, vi die'. Et habeas &c. Teste &c.

This writ lyeth where a man hath many heires that shal equally enherite, as many daughters or sonnes (if it be in Kent) and died seised of certaine lands or tenements holden in fee simple, if any of these coheires enter into the lande and holde these other out, then these that are holden out shall haue the sayd writ against the coheire that is in. And the proces is, as in a writ of Ayle. And note ye, that a writ of Nuper obijt, & a writ of right de rationabili parte, lyeth alwayes betweene pryuies of bloud, but a writ of Mordauncester, Cosinage, and a writ of Ayle, lieth alwaies against a straunger.

Note ye, if any be dekayed of their reasonable parte, it behoueth to be brought by all those, that are dekayed, & not by one of thē, for albeit, ꝑ these other will not sue for their reasonable part, she shal bring this writ and

all

all their names that are defoyced, and this writte shalbee retournable, and if they will not sue, hee that will, shall haue a writ called summonias ad sequendum simul, & if they come not at this writ, the other that will sue shal bee receiued to sue, and to pleade against his person that is defoysour in right of his part, & shal haue iudgement and execution for her portion. Note ye, ỳ this writ shalbe brought by coheire against coheire, & not otherwyse: for if any other auncestour enter, and claymes by the same discent that I claime by, I shall not recouer against him by the sayde writte nor other writte, but enter vpon him. And if he put me out, I shall haue assise of Nouel disseisin, or a writt of Ryght, for assise of Mortdauncestour I may not haue against my cosin that claimeth by the same discent ỳ I claime by, for a writ of Mortdauncestor lyeth neuer betwixt pryuies of bloud. And ỳ writ of Ryght that is brought against the cosin that claymeth vt supra, shall not bee determined as other writs of Right, that is to say, by battaile or by graund assise, but by enquest that is in the place of the graūd assise: for that, that the right is not to be tryed, but only the pryuity of bloud, ỳ is to say, which of them are more neere of bloud to the auncestour that was last seised afore that they are palled the third degree where they ought to claime by one discent, but battail lyeth not betwixt sisters, where one is feoffed by chartour, & ỳ other by discent, as it appeareth in

Magna

Magna Carta de aſsisa eligenda. Note ye, if any ſtraunger abate after the death of any cõmon auncеſtor al theſe coheires together ſhal haue their recouery againſt the ſtraunger as one ſole heire ſhall haue by a writ of Mortdauncеſtor.

In a Nuper obiit after that, that the tenant hath defended the wordes of the court, & the right of the demaundant, as a free man, he alledged that he was villein, wherby the writ abated. And note ye, when a writ is abated by exception of villenage, the writ lieth not againſt the lord of the villein, if the villein be not named, where the lorde is not ſeyſed by entre, for the lorde ſhal not be tenant againſt his will. Mich. 15. H. 3.

¶ A writ of Decies tantum.

REx vic' ſalutem. Si A fec' te ſecur' &c. tunc pon' &c. C. D. et E. &c. quod ſint &c. tali die, ad fid' tam nobis, quam prefat' A. quare cum in parliamẽto domini E. nuper Regis Angl' progenitoris noſtri apud weſtm' Anno regni ſui xxxviij. tent', inter cetera concordat' extitit, quod ſi aliquis iurator in aſſ. iuratis vel alijs inquiſitionibus capiend' inter nos et p'tem, vel partem et partem, quicquam capiat per ipſos vel per alios a parte conquerente vel defendente pro veredicto ſuo dicendo, et ſuper hoc per proceſſum in quodam articulo de Iuratoribus Anno regni ſui xxxiij. fact' ordinat', conuincat', ſiue ſit ad ſectam partis, quæ pro ſeipſo aut pro nobis, aut alterius cuiuſcunque perſonæ proſequi voluerit, ſoluat quilibet iuratorum prædictorum decies tantum, quantum ipſe recepit, et habeat ille, qui facit ſectam ſuam, medietatem,

dietatem et nos aliam. Et quod omnes imbraciatores dicendi vel procurandi tales inquisic' in patria p̄ lucro vel pro proficuo capiend' puniant eod' modo in forma ſicut iurat'. Et ſi iurator vel imbraciator ita conuictus non habet, vnd' in forma ſupradicta ſatisfaciat, habeat priſon vnius anni, prout in ordinat' pred' pleniùs continetur, predict' C.D. et E. in quadam aſsiſa no. diſſ. quam idem A. nuper arraiñ coꝝ dilectis et fidelib' noſtris R, S. &c. iuſtic' noſtris ad aſſ. in com̃ S. capienc' aſsign̄ per breue noſtr̄ verſus H. et alios in dicto breui content', de ten̄ in T. poſſit pro veredicto ſuo in hac parte dicendo, ac predict' C.D. et E. imbraciatores eiuſdem aſſ. ad eum dicend' et procurand' de præfato A. diuerſas pecuniarum ſummas, et alia dona apud R. cepeꝝ in noſtri contempt̄, et ad ipſius A. graue dampnum. Et con̄ formā ordinationis pred'. Et habeas ibi nomina pleg. & hoc breue, Teſte &c.

This writ lyeth where Iurors hath taken golde or ſiluer of the one partye or of ỹ other to ſay their verdict, then by this writ they ſhal pay ten times as much as they dyd receiue, and the party that ſueth ſhall haue the halfe, & ỹ king the other halfe. And thoſe Embraceours that procureth ſuch enquelt, and taketh money, they ſhal be puniſhed in ỹ ſame maner: or if theſe Iurors or Embraceours hath not, whereof they may make gree, they ſhall haue impriſonment of a yere, but no Iuſtice by his office ſhall enquire vpon the ſayd pointes, but onely at the ſuyt of the partye, and this recouerye is geuen by the ſtatute de Anno 34. E. 3. cap. 8. And the proces is, Attachment and diſtreſſe.

In

In this action popular, ỹ defendãt pleded a recouery in another action popular, ỹ was brought against him by a strãger, and acquitance made to him by a straunger, the plaintife may auerre the acquitance to be made by collusion. M. 35. H. 6.

In a Decies tantum, iudgement of the writ was demaunded: for that, ỹ the writ was, in loquela quę fuit inter I. P. demaundant & I. C. de-forc' per breue nostrum de iuditio de vno mesuagio where he ought to shewe by what writt of iudgement: for that, ỹ there is diuers writs of iudgement, as a scire fac' to execute a fine, or a iudgment. For if the defendant will say, ỹ there is no such recouerye, this issue is not certain, for ỹ recouery is not alledged certain notwithstanding the writ was awarded good, for that, that he hath put the certainty of the land in the writ. And in such a writ it is sufficient to say, In quadam loquela transgressionis vel debiti, without more, & yet the trespas is not certaine.

Note ye, that in a Decies tantum and other actions grounded vpon the statute ỹ geueth to ỹ party ỹ will sue the one halfe, & the king ỹ other, if ỹ party begin his suit, that ỹ was populer is made is his proper suit, & the king nor none other person may not release nor dispence, as to his interest, & the acquitall or cõdempnatiõ of the party is a barre & a discharge against al other people, but before the action begone, ỹ king may release or pardon, & ỹ shalbe a barre against al people, & ỹ was graunted by al the court M. 2. H. 7.

In

In a Decies tantũ against the Embraceors, the plaintife ought to shewe how they embraced, & where thembracement was made, & how he tooke money, & how he said to the Jury, & Danby sayd, though that they take money, & make no Embracery, the action lyeth not against them: but otherwise is of a Jury, if they take money to say their verdict, if the party be nõsuit ẏ action lieth very wel against thẽ, for that, ẏ when they are sworne they are Judges. T. 37. H 6.

And note ye: if the Jurors geeue a true verdicte notwithstanding that if they take money to say their verdict, they shalbe punyshed by this writ. M. 21. H 6.

A writ of Decies tantum was brought against certaine persons for taking of money in assise brought by the plaintif in this writ and his wyfe, and exception was taken for that, that the wife was named with her husband in this writ, and the exception was not allowed, for this writ is not giuen by reason of the tenancy, as attaint or Champerty is, but it is to punishe the Jurye for the taking of the money. T. 40. E. 3.

In a Decies tantum, the verdict was founde against the Jurors in this action, ẏ iurours were awarded to prison, & it was awarded that ẏ king & the party shall recouer x. times to the value &c. as the statute will &c. And that the king shal haue the one halfe and the party the other halfe, & the iurors shall profer that, ẏ belongeth to the party in ẏ court, and it was said that the king is principall,

for

for it is geuen by the statute that he that wil sue for the king, the king hath geuen him aduantage to haue the one halfe of that, that shalbe recouered, & it was aūswered that the king taketh not his suite as of debt due, but by way of a fine, and there where the king ought to take a fine, ℏ party shalbe alwayes first serued wherefore they payed the halfe to the plaintife, & founde suerty to the king &c. And then they were deliuered out of the prison. T. 14. E. 2.

¶ A writ de quare eiecit infra terminum.

REx vic' salutem. Si A. fecerit &c. tūc sum B. quod sit &c. tali die ostens. quare deforc' prefat A. de x. acris terr cum pertin in N. quod C. ei demisit ad terminum qui nondum preterijt, infra quem terminum idem C. prefato B. terram illam vendidit: occasione cuius venditionis idem B. prefat A. de terra præd eiecit, vt dic'. Et habeas ibi sum &c. Teste &c.

THis writ lyeth where a man letteth lāds or tenemēts to another for terme of yeres, within which terme the lessor enfeoffe another in fee, and the feoffee put out the tenant of his terme, then the tenant shall haue this writte against the feoffee, and the proces is Somons, Attachement, and distres, and the proces of outlawrye, but the tenant in thys case may haue a writ of couenaunt against his lessour if he be sufficient, and haue writing. And also because that this terme is cōpared to mouable goodes and chattels, this writ was founde by a discrete man called William

William Marton, so that by this writ the tenant may recouer his terme against the feoffee.

Note ye, that in this writ the lessee shall not recouer his terme & damages against the feoffee of his lessor. H. 19. H. 6.

In this writ against R. the plaintife declared that R. him deforced of an acre of land which one A. let to him for terme of yeares, within which terme, such a day &c. A. solde the land to this R. wherefore R. him put out: the defendant said, that he hath nothing of the sale of A. And he was put from that plee: for if it be found that A. had sold it, yet the putting out is not found: wherefore he said that A. hath nothing in demeine, reuersion or in seruice at the time that he solde the land to vs &c. and that was not allowed, for he ought to answere to the putting out: wherefore he said that he did not put him out by the reason of the sale of A. &c.

And note in the same plee if ye in the reuersion release to the disseisor: this writ of Quare eiecit infra terminum, lyeth against the disseisor, H. 3. E. 1. P. 18. E. 2.

And note ye, that a man shal not haue this writ, except that he haue possession in deed.

A writ de Eiectione firmæ

REx vic' salutem. Si A. fec' &c. tunc pone &c. B. qđ sit &c. tali die ostens. quare vi et armis in manerium de I. q̃ C. præfat' A. dimisit ad terminum x. annorum, qui nondum præterijt, intrauit, et bona et catalla eiusd' A. ad valentiam x. li. in eodem ma-

nerio inuenta cepit et asporr. Et ipsum A. a firma sua pđ eiecit, et alia enormia ei intulit ad graue dānum ipsius A. et contra pacem nr̄am. Et habeas ibi nomina pleg. Et hoc breue. Teste &c.

This writte lyeth in case where landes or tenements are let to a man for terme of yeares, within which terme a stranger of his owne wrong putteth out the said tenāt, then the layd termor shall haue the said writ against the stranger. And the Proces is as in a writ of Trespas: For in this writ shall be supposed that the tenant was putt out with force and armes.

Note ye, that this writ of Eiectione firmæ, is but in the nature of an action of Trespas, & the plaintife shall not recouer his terme that is to come, but damages: but he shall recouer his terme by a writte of Couenant against his lessor. H. 6. B. 1

Note yee, that executors brought a writte of Eiectione firmæ, and declared that their testator was put out, and the writ was mainteyned. Quod quære. T. 7. H. 4.

A writ de Ingressu ad terminum qui præterijt.

REx vicecom̄ salutē. Præcipe A. qđ iustē &c. redđ B. vnum mes. cum p̄t̄in in N. q̄ idem A. dimisit ad terminū qui præterijt, vt dic'. Et nisi pđ B. fecerit te secur̄ &c. tunc sum̄ &c. præfat̄ A. quòd sit coram &c. tali die, ostens. quare non fecerit. Et habeas ibi sum̄ et hoc breue. Teste &c.

This writte lieth, where landes or tenementes are lett to a man for terme of yeares

yeares, & the tenant holdeth ouer his terme, then the lesloz shall not haue this writ, but in place of this writ he may haue assise of nouel disseisin, if it be in the first degree, that is to say, if the lesloz enter after the terme ended, and the lessee enter againe, & put him out then lyeth the Assise.

And also it lyeth in case where landes oz tenements are lett foz terme of a strangers life, and the stranger dyeth, and the lesse holdeth ouer his terme: then the lesloz shal haue the said writt, oz hee may enter (as afoze is said.)

And in case that the tenant foz terme of life sell the land & dieth, then he in the reuersion shall haue the said writ. And in case, & the tenant foz terme of life be impleaded, and the land be recouered against him, and dieth, then he in the reuersion shall haue the said writ in the Post.

And note ye, if the reuersion of a tenant foz terme of life, be graunted to a man: and the tenant foz terme of life make feoffement, and dieth, it is said, that he to whom the reuersion is graunted, noz his heire may not haue the said writ: foz that, that he is a purchasoz of the reuersion, & not lesloz noz heire to the lesloz.

And note ye, that this writ lyeth not foz him in the reuersion after the death of the tenant in dower oz by the curtesie: foz they are not tenants foz life by lease, but by law.

But if tenant foz yeares, oz the Gardeyne by knightes seruice sell, then the lesloz oz

the infant shall haue assise of Mouel disseisin, & not this writ, as it appeareth by the Statute of Westmin. ij. chap. 25. which beginneth, Quia non est aliud breue &c. And the proces is in this writ, and all other writts of Entre, graund Cape and petit Cape.

And note ye, that this writ of Entre may be made in the Per, Cui & Post, as a writt of Entre or disseisin.

And note ye, that in euerie writ of Entre in the Post, the writ shall say, & vnde queritur &c. and in no other writ within the degrees. And also in euerie writ of Entre where a man demandeth of the possession of his ancestor, he ought to demaund by title, quod clamat esse ius &c. but of his owne possession he shall make no title, except it be where the woman demaundeth her heritage or mariage that was sold by her husband, or her dower of her first husband sold by the second husband.

A man made a feoffement of his land by Charter, which was deliuered into an indifferent mans hand, vpon such condition, that if he pay xx. li. to the feoffee at such a day, y he may enter into his land, & that the charter to him be redeliuered, if not &c. In this case if y feoffor pay the money at the day assigned and the feoffee hold the land after the day, & obteine the deede, the feoffor shall haue the said writ, and after the money to be payed. M. 5. E. 3.

The husband & the wife let landes to one for terme of yeares: the husband dyeth, and the

the lessee held ouer his terme and dyed, after whose death the sonne of the lessee entreth, and the wife bringeth the said writ supposing that he hath no entrie but by his father to whom she let for terme of yeres that is past: the tenant sayeth, that her husband and shee made lease iointly, and not she onely, &c. and that she might not denie: wherefore the writ abated, and no other maner of writ shee may haue. Anno 8. H. 7. Itin. Cant.

If an Abbot that is Parson imparsonee let land for terme of yeares, that is of the right of his church and dieth, and the lessee hold after his terme, his successor shall not haue the said writ, though that all be annexed to his abathy, & for that, that his successor in such a writ ought to claime his land in the right of his church that he holdeth as parson, in which case he hath no other remedie by the statute, but a Iuris vtrum, wherfore his writ abated. T. 20. E. 3.

A VVrit de Ingressu dum non fuit compos mentis.

REx vicecomiti salutem. Præcipe A. ꝙ iusté et sine dilatione redd̄ B. vnum mes. cū ptin̄ in N. quod clamat esse ius et hæreditatem suam, et qd̄ idem A. non habet ingressum nisi per C. patrem prædicti B. cuius hæres ipse est, qui illud ei dimisit, dum non fuit compos mentis suæ, vt dicit, Et nisi fecerit &c. Teste &c.

THis writ lieth where a man selleth land or tenement, when he is out of his mind, and dieth, then his heire after his death shall

haue this writ. And note ye, that it is sayd that the auncestor selfe shall not haue this writ, for that, ẏ he shall neuer be receiued to disable himselfe. Quære. And note ye, that this writ may be made in the Per, Cui, & Post, as other writs of Entre. And the Proces is Somons, graund Cape & petite Cape.

In this writ it was supposed, that the tenant hath no entrie but by his auncestor ẏ demised to the tenant. The tenant said that he entred by one N. & not by his auncestor, & that was holden no plee, for he ought to trauerse the demise and not the entre: wherfore he said that he entred by N. without ẏ that his auncestor let. T. 18. E. 3.

Note ye, that in this writ of Dum non fuit compos mentis, omission of discent of him that might tend the estate of the partie of the demaundaunt, shall not abate the writ though that hee suruiue him of whose seisin hee demaundeth, except that he were seised, or had released or had made felonie, or had issue in full life. H. 12. E. 3

Note ye, that if one being out of his mind make a feoffement in fee, after his death his heire may enter: for the issue was taken vpon the being out of his mind. T. 12. E. 3. Aũ 36. H. 6.

A writ de Ingressu dum fuit infra ætatem.

REx vicec' salutem, Præcipe A. qđ. iustè &c. redđ B. q̃ plenæ ætatis est, vt dic', duas acres terræ cum ptin in N. quas id B. ei dim isit dũ infra ætatem fuit.

vt

vt dic'. Et nisi fecerit &c. Teste &c.

This writ lyeth where one being within age selleth his land to him discended or of his owne purchase in fee or for terme of lyfe: when he commeth to his full age, hee or his heire may recouer by this writ: but it is conuenient that he be of ful age at the day of his writ purchased: but if the infant let his land for terme of yeares, & after he make a confirmation or releas within age, he shal not haue the said writ when he cometh to his ful age, but he may haue in this case assise of Nouel disseisen: for that that the Infant made no iyuerie of seisin.

And note ye, that if land in fee simple bee sold by one being within age, the heire of the seller shall not maintaine the said writ being within age, nor no writ of Entre, except it be within the case of the statute of Westm. ij. chap. 49. which beginneth, Purview est enfement que nul &c.

Also if the Father being within age sel land to him discended in tail and dieth, his issue shall haue a Formedon in the discendre, & not the same writ.

And note ye, that if an infant sel his land, he may enter against his owne feffement, & if he be put out, he may haue assise of nouel disseisin, when he commeth to his ful age: but when he cometh to his ful age, it is conuenient for him to purchase the said writ.

And note ye, that an infant shal recouer in a writ of right, or any other writ according to his case, for such lande that hee hath of

his owne purchase.

And also an infant shall be charged to attorne by a writ that is called Per quæ seruitia, vt patet per Iohannem Copland Termino Michaelis Anno 25. E. 3. But it is said, that he shall not be charged to attorne by a Quid iuris clamat. And note ye, that an infant may maynteine a writ of Entre vpon a disseisin made to himselfe.

And note ye, that if two bring a writ of Right as heires, the one being within age, the plee shall tarie vntil her full age.

If a man bring a writ of possession, as a writt of Dile, Cosinage or assise of Mortdauncestor, and the tenant in anie of these actions say, that his auncestor was seysed of the same land in his demesne as of fee, after whose death he entereth as sonne and heire, and pray his age, if the troth be so, he shall haue his age. Otherwise is in assise of nouel Disseisin, for that, ꝑ the disseisin was his owne wrong. If an infãt bring any writ of possession against one of full age, he shall be aunswered, as in a ffraudon in the discender, if his auncestor died seised as of fee tarie, for that that it is in place of assise of Mortdauncestor: but if ther be pleaded against him in the dede of his auncestor with affects by discent, the plee shall tarie, for that, that hee within age may not confesse nor deny the dæd of his auncestor. But if in assise of Nouel disseisin the dæde of the father of the Infant with a warrant be pleaded against him, the Assise shall bee awarded for the aduan-

tage

tage of the infant to enquire of the circumstances of the deede (that is to say) if it be the deede of the auncestor. And if it so be that the auncestour was of full age, and of good memorie, and if the land passed by the deede or not, and if he be heire to him, & for these matters afore, lowke the statute of Glouc Cap. 2. which beginneth: Si enfant deins age &c.

Note ye, that an infant shal answer where he is leoked within age, and euery other case where he is in of his owne Intrusion. The same law is in a writ of Dower where the heire is bouched to warrantie. The same law is in appeale if he be of the age of xiii. yeares. And note ye, if an infant sel his lande reseruing certeine rent, and at his full age he receiueth the rent, he shalbe barred of his action. And note ye, that an infant may not sue an appeale, for that, that he may not suffer imprisonment, and also for that, that he may not make raunsome.

This writ was brought in G. the tenant said that the vsage of that towne is, when a man can count xii. d. and measure a yarde of cloth, then he is of age to sel his land, of such age was the demandant when he demised: & for that that he put not the age to certeine, so that the demandant might haue answered to that, it was awarded that the demaundant should recouer. P. 13. E. 3.

Note ye, that if the husband & the wife do sel land that he hath in right of the wife both being within age, after the death of the husband, the wife shal haue a Dum fuit infra etatem

tem, & this is in a writ of wast. M. 14. E. 3.

If the husband & the wife purchase land joyntly, the wife being within age, and the husband, and the wife selleth all the land, the husband dyed, the wife shall recouer y whole by this writ. M. 22. E. 3.

Note ye, that it is said by Hanke in assise, that an infant of the age of xviij. yeares may be a disseisour with force and armes, and be imprisoned and aunswer to the wrong made by him &c. and if the infant plead in barre (as he well may) and a title is made against him, he shall aunswere to the title, or otherwise the assise shall be taken, & if he reply against the title which is found against him, it shall not be enquired if he haue any other matter against the title, and that is for the wrong that is supposed in his person, but when he is pleintife, and a barre pleaded against him, the court of office shall enquire for the infants for that, that he knoweth not his best right, and the court hath power to enquire for the tendernes of his age. E. 12. H. 4.

Note ye, that it was holden by all the iustices, that the circumstances of a deede pleaded against an infant, shall not be enquired in a writ of Entre, nor in no other writ, but where there is a iurie of the first day, for the venire facias is to trie one point certeine. M. 9. Edw. 4.

A writ de Ingressu super diss. in le quibus.

REx vic' salutem. Præc' A. quod &c. redd' B. vn mes. cum pertin' in N. quod clamat esse ius & hered'

hered' suam & de quo idem A. iniuste & sine iudic' disseisiuit C. pr̃m præd' B. cuius heres ipse est post prim̃ transfr̃ domini regis &c. In vascon̄ &c. Vel sic. In quod idem A. non habet ingressum nisi per C. cui A. illud dimisit qui iniuste & sine iuditio disseisiuit R. patrem præd' B. vel antecessorem &c. cuius heres ipse est post prim̃ transfretationem &c. vel sic. In quod idem A. non habet ingressum, nisi per dimissionem quam C. inde fecit B. patri &c. præd' B. cuius heres &c. post primam &c. Et vnde quæritur &c. Teste &c.

This writ lyeth where a man is disseised, and dieth, his heire shal haue the said writ against the same disseisour. And note ye, that this writ is not giuen but only for the heire of the disseisie (in what degree so euer hee be.) And in this writ the demaundant shall make title as heire from the auncestour that was disseised. And note: that this write shall not tarrie for the nonage, as appeareth by the Statute of Westminster 2. Cap. 46. which beginneth, Puruicu est ensement &c. It is said, if the foresaid writ be brought against the issue of the alienæ of the disseisour (if he be within age) then the plee shall not tarrie: for that, that it is not within the case of the saide Statute. And the proces is in this writ, and all other writtes of Entre that are plee of lande, and beginneth Præcipe quod reddat &c. Sommons, graund Cape, and petite Cape. And this writ shall say: De quo vel de quibus A. dis. B. pr̃m &c. cuius heres ipse est.

Note ye: of what things a man shall haue the

the ſaid writ, he ſhall haue the ſaid writ of a Gorge. H. 8. E. 3.

If a fiſhing be graunted to an Abbot & he vſe the fiſhing in a ſeueraltie, if he be diſſeiſed & died, his ſucceſſour ſhal haue a writ of entre for the ground. M. 13. E. 3.

And note ye that a man ſhall haue the ſaid writ Precipe quod reddat paſturam ad duos boues & this is to be intended that this writ lyeth not againſt the lord of the ground, for againſt him lyeth the Quod permittat. T. 4. E. 3.

A man ſhal not haue the ſaid writ of Præcipe quod reddat paſſagium vltra aquam againſt him that hath the courſe of the water, but a Quod permittat. T. 3. E. 2.

A man ſhal haue this writ Præcipe &c. quod reddat balliuam ad cuſtodiendum per eum de L. cum pertin quam clamat eſſe ius et hereditatem ſuam. M. 7. E. 3.

Note ye, that a man ſhall haue a Præcipe qd reddat of a thing that lieth in giuing, as land, rent, and ſuch like, but of a thing that lyeth in taking or ſufferance to vſe otherwiſe is, as of Cõmon, eſtouers, and ſuch like, wherof the partie ſhal haue aſſiſe or a Quod permittat. H. 4. E. 4.

A writ de Ingreſſu ſuper in per.

Rex vic' ſalut. Præc' A. quod iuſte & ſine dilatione reddat B. vnum mieſ. cum pertin in N. quod clamat eſſe ius & hereditatem ſuam, et in quod idem A. nõ habet ingreſſum niſi per C. qui inde injuſte & ſine iuditio diſſeiſiuit T. patrem præd' B. cuius heres ipſe eſt poſt primã trãſit' dñi H. &c. et vnde queritur &c.

This

This writ lyeth where a man is disseised of his fres hold, & the disseisour sell to a strãger, or if the disseisour dye and his heire enter, then the disseisie or his heire shall haue the forsaid writ against the alienour, or against the heire of the disseisour. And note ye, that liuing the disseisour no writ of Entre lyeth for the disseisie but onely assise of Nouel disseisin. And the writ of Entre shall be, Et quod idem A. non habet ingressum nisi per B. qui illud ei dimisit qui iniuste &c. And if the disseisour sell the land, & dyeth, and he to whom the land was solde sell to another, or in case that the disseisour dye, and his heire enter, and the heire die, and his heire enter, then the disseisour, or his heire shall haue a writ of Entre sur disseisin in the Per, & Cui. And the writ shall be thus: Et in quod non habet ingressum nisi per I. S. cui R. D. illud ei dimisit qui inde, &c. And note if the disseisour sell the land, and dye, and he to whome the land was sold sell to another, & the second alienee sell the land to another man, or in case that there be three discents of the disseisours part, then the disseisie, or his heire shall haue a writ of Entre in the Post, and the writ shall be: Et in quod non habet ingressum nisi post disseisinam quod H. inde iniuste &c. And note ye, that fiue things putteth the writ of Entre out of his degrees (that is to saie) Intrusion, Election, disseisin vpon disseisin, iudgement and eschete. First Intrusion is, where the disseisor died seised, and a stranger abate, the disseisie or his heire shall not haue a writ of Entre

in

in the per, but the writ shall be in the post: for that, that the abatour is not in by discent nor by purchase, but onely by his owne wrong. The second cause is Election, & that is where the disseisour is a man of religion and dieth or is deposed & his successor entreth the disseisee or his heire shall not haue a writ of Entre in the per, but a writ in the post, the cause appeareth. The third is iudgemẽt, and that is, where a man recouereth against the disseisour, and after the disseisour dyed, the disseisee or his heire shall not haue a writ of Entre in the per, but in the post. The fourth is Disseisin vpon Disseisin, and that is where the disseisour is disseised and dyed, the first disseisee or his heire shall not haue a writ of Entre in the per, but in the post. The fift is Escheat, and that is where the disseisour dieth without heire, or do a felonie, for the which he is attainted, and dieth. The lord entreth as in his Escheat, the disseisee or his heire shal not haue a writ of Entre in the per, but in the post, the cause appeareth. And note ye, that the writ of Entre in the post is giuen by ỳ statute of Marl in the last Chapter, which beginneth, Prouisum est, &c. And the Proces is Sommons, graund Cape, and petit Cape. And note ye that if the issue bring a writ of Entre in the quibus, & the tenant plead in barre a feoffement of the same father, the issue shall not be charged to answer to the deede, but he shall haue his writ for that, that this is no barre, but it is a trauers to the writ.

A writ

A writ de Entre ſine aſſenſu capituli.

REx vic' ſalutem. Præc. A. quod iuſte &c. redd' B. abbati ſancti Auguſtini de N. vnum meſ. cum pertiñ in N. quod clamat eſſe ius monaſterij ſui p̃d'. Et in quod idem A. non habet ingreſſum niſi per C. quondam abbatem monaſterij præd', qui illud ei dimiſit ſine aſſenſu & voluntate capl' monaſterij præd', vt dic'. Et niſi fecerit, & præd' B. fecerit &c. Et habeas &c. Teſte &c.

This writ lyeth where an Abbot or Priour, or any ſuch that hath couent or common ſeale ſelleth land or tenements that he hath in the right of his church, without the aſſent of the Couent, or chapiter, and dyeth, then his ſucceſſour ſhall haue the ſaid writ. And know ye, that this writ may be made in the Per, Cui, or Poſt, as it appeareth by the Regiſter. And the proces is as in the writ next afore.

A writ de Ingreſſu ſur cui in vita.

REx vic' ſaluť. Præc' A. quod reddat B. quæ fuit vxor E. vnum meſ. cum pertiñ in N. quod clamat eſſe ius & hered' præd' E. in quod idem A. non habet ingreſſum niſi per prædictum E. quondam virum ipſius B. qui illud ei dimiſit, cui ipſa in vita ſua contradicere non potuit, vt dic'. Et niſi fec' &c.

This writ lyeth where a woman is ſeiſed for terme of life in taile, or in fee ſimple, and take a huſband, and the huſband ſell the lande and dyeth, the wife ſhall haue the foreſaid

foresaid writ. And the Proces is Graund cape and Petit cape. And note ye, that in this writ shee shall make title, and the writ shall say: Quod clamat esse ius et hereditatem suã, notwithstanding her own seisin. And if the wife hath other estate then fee simple, as for terme of life, the writ shall say: Quod clamat tenere ad terminũ vitæ suæ & so of fee tail. And in case that the husband and the wife purchase ioyntly, & the husband sel al the land & dieth, the wife shal haue the said writ & recouer the whole. And by the statute of Westm̃ 2. cap. 3. which beginneth: In casu quo vir, &c. wil that if land, which the husband hath in the right of his wife, be recouered against the husband and the wife by default, after the death of her husband the wife shal haue the foresaid writ & the tenant shal shew the matter of his first writ, to which writ the wife shall haue aunswer, and if it be found that the tenant hath no right, then the wife shall recouer by the said writ. But if a man recouer against the husband onely the land that he hath in right of his wife by default or action tried, and the husband dyeth, the wife shall haue assise, and not the said writ: for that, that she was not partie to the iudgement. And note yee: that where a man is a stranger to iudgement he may haue trauers to the title comprised in that iudgement, as in case that I bring a Formed, & the tenant say, that another time he brought Ass. of No. diss. against B. & recouered of the gift of which he bringeth, and this action was meane betwixt the disseisin

made

made to him and his recouerie, and demaund iudgement &c. the demaundant ſaid that by ſuch a recouerie you may not deferre the gift, for ye were not diſſeiſed, and that am I readie to auerre &c. and that was thought a good plee, but the partie that is priuie ſhal not haue ſuch an auerrement, for that, that he is helped by Attaint, Error, or Diſceipt, after his caſe, and ſo no miſchiefe to hym.

And note ye, that if the wyfe bring her writ of Cui in vita againſt the feoffee of her huſbande, and the feoffee vouch to warrant the heire of the huſband that is within age, the plee ſhall not tary vntill hys full age, for that, that it is remedied by the ſtatut of Weſtm 2. cap. 40. which beginneth. Cùm quis &c. But otherwiſe is, if the wife bring her Cui in vita, in the Per, and Cui, and the tenant vouch him to warranty by whom his entrie is ſuppoſed, and he vouch ouer the heire of the huſband that is within age, and pray that the plee may tarie vntill hys full age, in this caſe the plee ſhal tarrie, for that, that the ſame ſtatute is not otherwiſe entended but where the alyenee of the huſband voucheth to warrant the heire of the huſband. And note ye, that this action lyeth for the heire of the wife, for if the huſband ſell land that he hath in right of his wife, and the huſband and the wife dye, the heire ſhal haue the ſaid writ. But if the wife be tenant in taile, and the huſbande ſell, or the huſband and the wife leaſe by default: It is ſaid that the heire ſhall haue a Formedon

in the diſcender, and not in a Cui in vita.

And note ye, that if the iſſue bring the ſaid writ of ſur Cui in vita, of the ſale made by his father, he ſhal not be barred of action by the warrantie of his father onely without that he hath to the value of fee ſimple diſcended to him from his father that made the warrant. And that is geeuen by the ſtatute of Glouceſt. cap. 3. which begynneth. Eſtablie eſt enſement &c. And in caſe that the huſband let lande that he hath in right of his wyfe for terme of yeares, and after make a confirmation for terme of lyfe, or in fee, and the huſbande dyed, it is ſaid that the wife may not haue the Cui in vita, but Aſſiſe of Nouel diſſeiſin, nor the heire of the wife after the death of the wife ſhall haue the ſayd writ, but a writ of Entre ſur diſſeiſin, for the writ ſhall not ſuppoſe ſuch ſale to bee made by confirmation, nor by releaſe.

This writ of a Cui in vita was, quam clamat tenere ſibi & heredibus de corpore &c. and ſheweth not of whoſe gift, wherefore the writ abated: But in a Quod ei deforceat he ſhal not ſhew of whoſe gift. H. 43. E. 3.

The ſaid writ ſuppoſeth that the tenaunt hath no entre but by one S. and the tenaunt ſaid that he entred by the ſaid S. and one A. his wife, iudgement of the writ, yet the writ is good, for though that the huſbande made a demiſe to S. and A. his wife, and they demiſed ouer to the tenaunt, yet al ſhal bee compted the demyſe of the huſbande, wherefore the tenaunt pleaded to the action.

But

But if S. and I. had demiſed by fine otherwiſe ſhould be, and that the tenaunt ſhould haue pleaded ſo. M. 19. E. 2.

The ſaid writ was brought againſt the huſband and his wife, ſuppoſing that the wife hath no entrie but by one I. to whom the huſband of the plaintife demyſed &c. the tenaunts ſaid that the huſband and the wife entred by the ſaide I. iudgement of the writ, and that plæ was not allowed without trauerſing that the wife onely entred. H. 33. E. 3.

If the huſbande and the wife, and the third purchaſe iointly, and the huſbande ſell all the lande and dye, the wyfe ſhall not haue a Cui in vita lying the thirde, for that, that they may ioyne in a writ of Ryght: But if the thirde dye, ſhe ſhall haue a Cui in vita of the whole, but if the purchaſe was afore the maryage, then ſhe ſhall haue a Cui in vita but of the halfe, no more then a Cui ante deuortium. M. 36. E. 3.

If the huſband be ſeiſed of land for terme of lyfe in the right of the wife, and thereof make a feoffement, by force whereof hæ in the reuerſion enter, and the huſband dyed, the wife ſhal haue the lande againe. 9. E. 2. Lib. Aſſ.

If the huſbande diſcontinue land that hæ hath in the right of his wife and dye, if the wife accept part of the lande in name of dower. Quære if ſhe ſhalbe barred. M. 10. E. 3. H. 7. E. 3.

If a man geeue lande to a woman vpon condition that shee shall sell the land, and to distribute ꝑ money for the soule of the testee, the wife taketh a husband, and after the husband and the wife sell the lande and distribute the money according, the husbande dyeth, the wife shal not haue a Cui in vita.

¶A writ de Ingressu cui ante deuortium.

REx Vic' salutem. Præcipe A. quòd reddat B. quæ fuit vxor C. vnum mes. cum pertinentijs in T. quod clamat esse ius & hæreditatem suam, & in qđ idem A. non habet ingressum nisi per prędict' C. quondam virum ipsius B. qui illud ei dimisit, cui ipsa ante deuorc' int̄ eos celebrat̄ cōtradicere non potuit, vt dic'. Et nisi fec' &c. Et habeas &c. Teste &c.

This writ lyeth where a man selleth land that he hath in the right of his wyfe, as afore is said in the Cui in vita, and afterward a diuorce is had betwixt them, then the wife after the deuorce or her heire shal recouer against the feoffee, his heire or his assygnes, or what person soeuer that is in the lande. And this writ may bee made in the Per, Cui, or Post. And the prores is, as in the writ next afore.

¶A writ de Ingressu causa Matrimonij prælocuti.

REx Vic' salutem. Prȩcipe A. quod &c. reddat B. vnum mesuag. cum pertinentijs in N. qd' idem A. ei dimisit causa matrimonij inter eos prælocuti, qui eam duxisse debuit in vxorē & nondum duxit vt dic'. Et nisi fec' &c. Teste &c.

This

This writ lyeth where a woman geeueth certaine landes, tenements, or rentes to any man vpon condition, that he shall mary the said woman within a certaine time, if the man wil not mary the said woman with in the said time (betwixt them assigned) or if the man disable himselfe as in taking of another woman to hys wife in the meane time, or bee made a Preest, so that she may not take him to husbande, according to the condition, she or her heires shal recouer the said landes against the said man, or against whosoeuer bee in the lande, by this said writ, for this writ may be in the Per, Cui, or Post.

And note ye, that it is conuenient that this condicton be made by indēture, or otherwise this writ lyeth not. And the proces is as in the Cui in vita.

In a Cui in vita, the tenaunt said, that the said R. her husband gaue the same landes to the wife, now demaundant, causa matrimonij prælocuti, and after toke her to wife &c. And so the effect of the gift &c. Deuoñ. If a man geeue land to a woman by fine, and the next day he marie her, suppose you that the fine is voyde: which proueth that by the espousels, the gyft nor the graunt is not defeated. H.7.E.3.

¶ A writ de Intrusion.

REx Vic' salutem. Præcipe A. quód &c. reddat B. vnum mes. cum pertinentijs in N. quod clamat esse ius & hæreditatem suam, & in quod idem A.

non habet ingreſſum niſi per intruſionem quam in illud fec' poſt mortem C. que fuit vxor G. quæ illud tenuit in dotem de dono præd' G. quondam viri ſui, patris prædicti B. cuius hæres ipſe eſt, vt dic'. Et niſi fecerit &c. Teſte &c.

This writ lyeth where the tenaunt for terme of lyfe, or of another mans life, tenant in dower, or tenaunt by curteſie dyeth ſeiſed of certaine landes & tenements, and a ſtraunger enter, he the reuerſion ſhall haue the ſaid writ againſt the abator, or againſt whoſoeuer that is in the land after the death of ſuch tenants.

And note that this writ may be in the Per, Cui, or Poſt, as other writs of Entre.

And note ye, that Aſſiſe of Mordaunceſter, Ayel, Coſinage, aſſiſe of Darreine preſentment, & Nuper obijt, are called writs of poſſeſſion, in which writs a man ſhall recouer damages, coſtes, and the iſſues of the land or tenement demaunded. And note ye, that a writ of Intruſion in the time of vacation ſhalbe maintayned for the ſucceſſor againſt the abatour that is in, in any land or tenement that belongeth to his church after the death of hys predeceſſor, and that is geeuen by the ſtatute of Marlebridge cap. vltimo. And the proces is as in the Cui in vita.

The graundfather, father, & the ſonne are, and the graundfather let land to the father for terme of his lyfe, the graundfather & the father died, and a ſtraunger abate, the ſonne ſhall haue a writ of Intruſion, and declare of the ſeiſin of the graundfather, and make diſ=

diſcent by his father. H.7.E.3.

If landes be let for terme of lyfe, the remainder ouer in fee, the tenant for lyfe dyed, a ſtraunger abate, he in the remainder may chooſe to haue a Scire facias, or a writ of Intruſion. H.6.E.2.

¶ A writ de Ingreſſu ad communem legem.

REx Vic' ſalutem. Præcipe quód iuſté & ſine dilatione reddat B. vnam bouatam træ cum pertiñ in N. quam clamat eſſe ius & hæreditatem ſuam, & in quam idem A. non habet ingreſſum niſi per C. que fuit vxor D. qui illam ei dimiſit, & quæ illam tenuit in dotem de dono predict' D. quondam viri ſui, patrem prædicti B. cuius hæres ipſe eſt, vt dic'. Et niſi &c. Et habeas &c. Teſte &c.

This writ lyeth where the tenãt for terme of lyfe, or of anothers lyfe, tenant by curteſie, or tenant in dower, make a feoffement in fee and dyeth, he in the reuerſion ſhal haue the foreſaid writ againſt whoſoeuer that is in the land, after ſuch feoffement made.

And note ye, that this writ may be made in the Per, Cui, or Poſt.

And note ye, that it is geuen by the ſtatut of Weſt. 2. ca. 3. which beginneth. In caſu quo vir &c. if tenaunt in dower, or by the curteſie loſeth by default ꝙ dye, he in the reuerſion ſhal haue the ſaid writ: but if the tenant by the law of Englande make a feoffement, or loſe by default ꝙ dyeth, he in the reuerſion may recouer by Aſſiſe of Mortdauncetor, Ayel, or Coſinage, notwithſtanding the ſeiſin of ꝯ tenant by the curteſie, as it appeareth

by the ſtatut of Glouc cap. 3. which beginneth. Eſtablie eſt, que ſi home de &c. where he might haue had the writ of Entre at the cõmon lawe. And the proces is as in other writs of Entre.

In a writ of Entre at the common law, the writ ſhewed not the death of the tenant for terme of lyfe, wherefore the writ was abated by iudgement, and after reuerſed in the Kings Bench, for that, that there is no other fourme of writ. M. 16. E. 3.

¶A writ de Ingreſſu in caſu prouiſo.

REx Vic' ſalutem. Præcipe A. quód &c. reddat B. vnum meſuag. cum pertineñ in N. quod clamat &c. & in qd' idem A. non habet ingreſſ. niſi per C. quę fuit vxor G. quæ illud ei dimiſit, vel quæ illud tenuit in dotẽ de dono præd' G. quondam viri ſui, patris prædicᵗ B. cuius hæres ipſe eſt, qd' per dimiſſionem per ipſam C. præfaᵗ B. contra formam ſtatuti Glouceſt. de communi conſilio Regni Angl' inde prouiſ. factã in feod', ad prefaᵗ B. reuerti debeat per formam eiuſd' ſtatuti vt dicᵗ. Et niſi fecerit vt ſupra.

THis writ is geeuen by the ſtatut of Glouc cap. 7. which begynneth. Enſement, que ſi feme vnde &c. and lyeth where tenant in dower maketh a feoffement in fee tatle, or for terme of lyfe of the ieſſee (lyuing the tenant in dower) he in the reuerſion ſhal haue thys writ againſt him that is in the lande. And this writ may be made in the Per, Cui, or Poſt, as other writs of Entre.

And note ye, that this writ lyeth during the lyfe of the wife & not after the death.

¶A

¶ A writ de Ingreſſu in conſimili caſu.

REx Vic' ſalutem. Præcipe A. quód iuſtè & ſine dilatione redd' B. vnum meſ. cum pertiñ in N. quod clamat eſſe ius & hæreditatem ſuam, & in qđ idem A. non habet ingreſſum niſi per C. qui illud tenuit per legem Angliæ, poſt mortem G. quondam vxoꝛ ſuæ, matris prędict B. cuius hæres ipſa eſt. Et que poſt dimiſſionem per ipſum C. prefat A. inde facĩ in feodo ad præfatum B. reuerti debeat p formam ſtatuti in conſimili caſu prouiſ. Et niſi fecerit &c. Teſte &c.

This writ is takē by the equitie of the ſtatute of Glouē cap. 7. and lyeth where the tenant foꝛ terme of lyfe, oꝛ by the curteſye make a feoffement as afoꝛe is ſayde, he in the reuerſion ſhall haue this writ againſt whoſoeuer bee in the lande during the lyfe of the tenant by the curteſy, oꝛ tenant-foꝛ terme of life and not after their death. H. 12. E. 3. And this writ may be made in the Per, Cui, oꝛ Poſt. And the pꝛotes in theſe two writs is Somons, graund Cape, & petit Cape.

Note yee: that this writ was maintained by the tenant in tayle in the reuerſion and the writ made mention of the tayle. H. 21. E. 3.

Note yee: that this writ was purchaſed duringe the lyfe of the tenant foꝛ terme of lyfe, and hanging the writ the tenant dyeth, yet the writ was awarded good, foꝛ that, that he was a ſtraunger to the writ and alſo the action is bꝛought of the alyenatyon. T. 6. E. 2.

If a man let landes foꝛ terme of lyfe, the remain-

remainder to another in fee by fine, the tenant for terme of lyfe made a feoffement in fee, hee in the remainder in fee brought the said writ, and the writ was good by the opinion of the Court. H.28.E.2.

Note ye, that the graūtee of the reuersion brought the said writ, and was iudged good ex assignatione &c. H.12.E.2.

¶A writ de Cessauit per biennium.

REx Vic' salutem. Præcipe A. quód &c. reddat B. vnum mes. cum pertinentijs in N. quod idem A. de eo tenet per certa seruitia. Et quod ad præfat' B. reuerti debeat per formā statuti de communi consilio Regni nostri Angl' inde prouis. eo quód præd' A. in faciendo seruitia prædict' per biennium iam cessauit, vt dic'. Et nisi fec' &c. Teste &c.

THis writ lyeth where my verie tenaunt holdeth of me certaine lands or tenemēts by the seruices of homage and fealtie, and to geeue to me euery yeare at certaine termes of the yeare certaine rent: of which seruices I was seised by the hand of the tenant, then if he cease of the payment of the said rent by ij. whole yeares, so that I could not finde a distres in the said tenements. s. no goodes whereby I myght distreyne hym to haue paide the said rent, but suffereth the landes to lye fresshe without manurance after the said two yeares past, the said tenements because of the cesse ought to reuert to me, and then I may not recouer by this writ against my tenant or his heire, or against whosoeuer be in after the said cesse by ij. yeares.

And

And note ye, if he against whom my writ is brought, come in court afore iudgement geeuen, and pay to me the arrerages & damages reasonable for the said cesse, and finde suertie (as the Court will award) that hee shal cesse no more of the payment of the rent, then he shal hold still the said tenements, so that I shall not recouer by this writ.

And note ye, that the heire may not maintaine this writ, because of a cesser made in time of his auncestor, nor shall haue no rent suit, nor arrerages due in the life of his auncestor. And also it is said, that this writ lyeth of the cesser of no seruices, but of yerely seruices, as of rent and such lyke, and not of homages, fealtie, escuage, and reliefe, for these are no yerely seruices.

And note ye, that if I dye seised of yerely seruices, and the tenant cesse the two yeres next after my death, so that my heire was neuer seised of the seruices, yet my heyre shall haue the said writ against the said tenaunt or his heire, or against what person soeuer that is tenaunt, and he shall name him selfe heire to his father in the writ. And so is the statute of Westminster 2. cap. 21. which beginneth, Cum in Statuto apud Glouceſt. &c.

In a Ceſſauit the writ was, that one I. holdeth certaine landes by certaine seruices, and that the said I. hath cessed, and declared that I. holdeth of him the manor of M. whereof the Carue is parcel by certaine seruices, & that the tenant hath no entrie but by

I.

J. and the writ was challenged: for that, that he declared that the whole manor was holden of hym by certaine seruices, and he alligned the cessour but in the land demaunded that is parcell of the manor where he ought to haue allygned the cessour in the whole manor, and that exception was not allowed, for the cessour shall not be alligned but in the land demaunded. T. 8. E. 3.

A Cessauit was brought against A. & declared that B. helde of him, and that the tenements ought to reuert, for that, that the said A. hath cessed, and the writ awarded good without speaking of any entre. M. 29. E. 3.

In a Cessauit be found iiij. pledges, and the court awarded, if the rent be behinde after that the Lord shall distraine in the land of the pledges. Hil 31. E. 1.

Two coparceners are intituled to haue a Cessauit, the one hath issue and dyeth, he that suruyueth shall not haue the action. Otherwise it is of ioyntenaunts: If the husbande hath a seigniorie in the right of his wife, and the tenant cesse, & after the husband dyeth, the wife shal haue the Cessauit. H. 33. E. 3.

In a Cessauit the tenant said, that hee hath declared in the right of his Church, in the writ is not comprehended, quod clamat esse jus ecclesiæ suæ, and therefore he demaunded judgement, but the plee was not allowed, for that, that the Abbot shal not make title in this writ, for that, þ it is geuen by the statute. H. 10. E. 3.

Note ye by Prisot, that a Cessauit lyeth of

suit of court, if the Lord hath a court, if not the tenant may alledge that. M. 33.

Cessauit was maintayned by an infant, for that, that it is geeuen in place of auowrie, notwithstanding that it be a writ of Right in his nature. M. 17. E. 2. P. 10. E. 3.

Note ye, that a Cessauit lyeth not for the donour against the donee, but if land be geeuen in taile the remainder ouer in fee, the chiefe Lord shall haue a Cessauit against the tenant in taile, for that, that the Lord shall not be barred by the act of a straunger. T. 19. E. 3.

¶ A writ de Cessauit per biennium de feodi firma.

REx Vic' salutem. Præcipe A. quód &c. reddat B. vnum mes. cum pertinentijs in N. quod idem B. eidem A. dimisit ad feodi firmam, reddend' inde per annum eidem R. terc' partem seu valorem mes. præd'. Et quod ad ipsum B. reuerti debeat per formam statuti &c. inde prouis. eo quod prędict' A. in solutione firmę præd' per biennium iam cessauit, vt dic'. Et nisi &c. Teste &c.

This writ lyeth where a man geueth certaine land in fee simple, or in fee taile, paying to him and to his heires in fee ferme by yeare, that is to say, rent, or to finde to hym and to his heires Estouers or clothing, the which charge so reserued to hym and to hys heires amounteth to the value of the iiij. part at least, or more, as to the third part, or the halfe, or the verie value of the lande or tenement so charged, then if the sayde

fee

fee ferme be not paide by two whole yeres, nor that he may not finde distres in the sayd tenements within the said two yeres, then shall he or his heire recouer against the tenant by the foresaid writ.

And note, that no man may distraine for these charges but where those tenementes are geeuen in tatle, as afore is said, or that they were geeuen in fee simple afore the statute of Quia emptores terrarum &c. for if tenements be geeuen in fee simple after the statute aforesaid, a man may not distraine.

And note ye, that the heire shall not haue this writ because of such charge behynde in time of his auncestor, And the proces is in this writ graunde Cape and petit Cape.

¶ A writ de Cessauit de Cantaria per biennium.

REx Vic' salutem. Præcipe Iohanni Abbat' de N. quód reddat B. vnum mes. cum pertinentijs in N quia A. pater præd' B. cuius hæres ipse est, dimisit C. quondã Abbati & succeff. suis Abbatibus de N. præd', ad inueniendum quendam Monachum pro animabus præd' A. & hered' eiusdem A. in abbat' de N. præd' diuina celebraf. Et quia ad præfatum B. reuertere debet per formam statuti de communi consilio Regni nostri Anglię super huiusmodi dimissione prouisi, quia præd' Iohannes inueniend præd' Monachum per biennium cessauit, vt dic'. Et nisi fec' &c. Teste &c.

THis writ lieth where a man geeueth lãds to any Church to finde for the soule of him & his auncestors and his heires, a candle or

or lampe before the Sacrament to burne for a certain time, or to do any almes, viz. as to cloth or feede certain poore people euery yere, or to do diuine seruice in any Chappell for their soules &c. vt supra. Then if the saide charges be not done, and that a man may not finde distres vpon the ground by two yeres, then he or his heires shall haue the said writ after the said two yeres past, against whosoeuer that is tenant after the cessor.

And note ye, ỹ these writs aforesayd may be made in the Per, Cui, or Post, but I beleeue that this writ may not be made but in the first degree. And the proces as afore is said.

In a Cessauit against a Priest of Chauntera, supposing that he holdeth the same tenements of the wife of the demaundant by the seruices to sing euery Sunday in the yere Masse and Matins, and that he and al his predecessors hath holden the said tenementes by such seruices, tyme out &c. the which landes to them ought to reuert, for that, that he hath ceased by two yeres, and for that, that the statute is, Quod competet actio donatori aut eius hæredi, and that he hath not declared that it was donour, or of whose gift he holdeth the land, the writ was abated. M.7.R.2.

¶ A writ de Contra formam collationis.

REx Vic salutem. Præcipe A. Abbati de N. quòd reddat B. vnum mes. cum pertineñ in P. quod eidem domui collatum fuit in liberam eleemosinã per præ-

prædictum B. Et qd' per alienationē per prędictum Abbatem, contra formam collationis prædictę inde factam in feodo ad præfatam B. reuerti debet per formam collationis prædictę, vt dic'. Et nisi fec' vt supra. Teste &c.

This writte lyeth where a man geueth landes or tenements, or rent to any Abbot or Prior of any house of Religion, or holy church, to haue and to holde to him and to his successors in pure almes or otherwise to finde certaine poore people, or to make certaine diuine seruice, as afore is said, in the writ of Cessauit de cantaria, then if the sayd Abbot or Prior, or any of his successours make a feoffement with assent of the said tenaunts, to the disherison of the house or church, as for terme of lyfe of the lessee, in tayle, or in fee, he that so did geue the sayd tenements, or his heire shall haue the said writ against the soueraigne of the said house or church that made the feffement, or against his successour, if the feffours be dead, and not against the feoffee that is tenant of the land, as it appeareth by the statut of Westm 2. cap. 41. which begynneth. Cum statuit dominus Rex &c. and when he hath recouered against the Abbot, then shall go a writ of Execution to the Shirife to delyuer seisin of the land. And the proces is Summons, graunde Cape, & petite Cape.

Note ye, that if an aduowson be geuen to an Abbot in free almes, and graunt the said aduowson at the next auoydance, the donour or hys heires may present, for that,

that

that he may not haue a Contra formam collationis. H.20.E.3

And note ye, ꝑ when he hath recouered againſt an abbot in this writ, & hath a ſcire facias againſt the tenant, he may trauerſe the action of the demaundant in the ſame point ꝑ was tried afore betwixt the abbot & the lord for that, ꝑ this recouery bindeth no ſtrangers but pryuies, as in other caſes. H.23.E.2.

¶ A writ de forma donationis in the diſcendre.

REx vic' ſalutem. Prec' A. quod iuſte &c. reddat B. vnum meſ. cum pertiñ in N. quod C. dedit B. & E. vxori eius & heredibus de corporibus ipſorum B. et E. exeuntibus. Et quod poſt mortem dictorum B. & E. prefato B. filio & heredi prædictorum B. et E. per formam donationis prēd diſcendere debet. Et niſi fecerit &c. Teſte &c.

THis writ lyeth in caſe where a man geueth certaine landes or tenements, or rent in free maryage, that is to ſay to a man with his coſin in maryage, or to a man & his wife and to the heires of their two bodies begotten, or to a man & to his heires of his bodye begotten (males or females) if that man or woman, to whom the land is ſo geuen, hath iſſue of his body & died, & a ſtraunger abate, or if the donæ make a feffement of thoſe lāds by fine or without fine, or if he be diſſeyſed of thoſe tenementes, or if a man thoſe recouer by default in the kinges court, then after the death of the ſame man to whom the lande is geuen, his heire of his body begotten ſhall

haue the ſaid writ. And note ye: that tenementes in ſuch maner geuen are called tayled landes. And note ye: that the heire of ſuch tenantes ſhall neuer haue other writ of the poſſeſſion of his auncеſtour, then the ſayde writ, but of his owne poſſeſſion, he may haue aſſiſe of Nouel diſſeyſin or a writ of Entre vpon diſſeiſin according to his caſe, and the Formedon in the diſcendre is the writte of Right to the heire in taile. And note ye: that it is a good barre in the ſayd writ to pleade ꝑ feoffement of the auncеſtor with a warrãty, & that the tenant wil auerre ꝑ the heire hath aſſets by the diſcent in fee ſimple notwithſtãding the ſtatute of Weſtm 2. cap. 1. which beginneth. In primis de tenentis &c. if the heire in the taile hath aſſets by diſcent vt ſupra, & he hath iſſue & make a feoffement of the aſſets ꝑ is in fee ſimple, & die, though that his father had aſſets by diſcent & was barred, this heire ſhal not be barred, for euery heire in the tayle is priuy to recouer the land tailed except that he hath aduãtage by diſcent in fee ſimple. Otherwiſe is where a man maketh a feoffemẽt of the land that he hath in ryght of his wife in fee ſimple that he holdeth by the curteſie & dyeth, & ꝑ value in fee ſimple diſcẽdeth to his iſſue that is heire to the wife, though that ꝑ heire ſel the fee ſimple after & hath iſſue & die, that iſſue ſhalbe barred to demaũd of the ſeiſin of his mother: for that ꝑ his father was barred at one time. And note ye, that if the father tenant in tail in poſſeſſion enter in religion & be profeſſed, his heire ſhall haue the

ſaid

ſaid writ, & it ſhal ſay thus. Poſtquã pater ſuus habitum religionis aſſũpſit &c. But if the father make a feffement afore the entry in religion, the ſone ſhal not haue ỳ ſaid writ during the natural life of his father. And it is ſaid, that if the tenant in the tayle die without iſſue of his body, ſo ỳ the lãd is reuertible to the donor, yet the wife of the tenant in tayle ſhall haue her dower. Alſo it is ſaid, if land be geuen to a woman & to her heires males of her body begotten, if ſhe take a huſband and hath iſſue female, & the wife die, the huſband ſhall not hold by curteſy for that, that it is impoſſible that the iſſue female ſhal enherite, but if land be geuen to a man, & to his heires males, it is ſayd that if he hath iſſue male and dieth, the iſſue hath fee ſimple. And note, that a mã ſhal lay the taking of the profits in a Formdone in the diſcender onely in the perſon of him to whom the land is geuen in the taile, & the demaundant in this action ſhal make him ſelfe heire to the aunceſtor that was laſt ſeiſed. And note yee: that if the tenant in tayle hath iſſue a ſonne and a daughter by one woman and a ſonne by another woman, and dieth the ſonne by the firſt woman entreth and dyed ſeyſed, the ſonne by the ſeconde woman ſhall enherite and not the daughter, for he is more worthye of bloud, and more neere heire to the father to whom the land was geeuen, otherwyſe is of lande in fee ſimple. And note yee: howe the demaundaunt maye mayntayne the ſayde Writte where the tenant pleadeth that the donour

did not geue &c. the demandant may say that he shal not haue his auerment, for one I.M. impleaded my father, & he vouched the same I. & entred into the warrãty, & pleded & lost the same land that now is in demaund, iudgment &c. And note ye: that in a formedon in the discender a warrant of any of the auncestors by whom the heire made conueyance is no barre, except that he hath lande in fee simple discended to the value.

Land was let for terme of life, the remainder in taile, the tenant for terme of life dieth, & the tenant in taile hath issue & dieth, & the issue bringeth a Formedon in the discender, & alledgeth no esplees in the donor, but in the tenant for terme of life, & after his deathe in him in the remainder in taile, & the declaration was challenged, for that, that he alledged not esplees in the donor, & the exception was not allowed. P. 8. E. 3.

Tenant in taile exchaunged the land tayled for lande in fee simple (by deede) & bounde him & his heires to warranty, & hath issue & dieth, & the issue bringeth a Formedon & the tenant pleadeth in barre the deede with warranty, & the land taken in exchaunge by way of Assise: that was holden no barre, if the heire hath not occupyed the land taken in exchaunge after the death of his auncestor. H. 18. H. 8.

The tenant in taile afore the statute made a release for terme of life, and released afore the statute: that is a barre to his heire. H. 44. E. 3.

In

In a Formedon of rent, the warrant of the auncestor with assets is a good barre, yet the rent lyeth not in discontinuance, but at the will of the issue, but it is the folly of the issue to bring his action. H.33.E.3.

Note ye, that if the wife tenāt in tail take a husband, and hath issue, & afore the statute they both make a feoffement in fee of the lāds and dye, in a Formedon the heire shal not be barred, otherwise is it if it had been by fyne. T.4.E.2.

In Formedon in ꝑ discender was brought of a knightes fee, & the writ was challenged for that, ꝑ the fee lyeth not in demeine, for he hath declared ꝑ the auncestor was seised as of fee & of right, & laid ꝑ esplees, as in homage, escuage, reliefe, ward, mariage, & other manner of issues of knightes fee, as of fee and of right, & Gerfarde said, that a cōmon to a certaine number of beastes nor aduowson lieth, not in demeine, but a Præcipe quod reddat, and a writ of ryght lyeth of a knights fee, and by demaunde of a knightes fee I shall recouer by chaunce xx.li. of rent &c. and it was said that her shall neuer haue other writ T.10.Ed.3.

In a Formedon the writ was challenged for that, ꝑ it wil that A. & B. his wife hath geuen, exception was taken, because that the gift of the wife is voide during the mariage, & Herle said, that if the wife after the death of the husband had confirmed the gift ꝑ was made by her and her husband, that then the gift was made stedfast, and the writtes was

awarded good. A Formedon was brought by I. G. & I. his wife, & it was sayde when the sonne is seised after ỹ death of his father the writ shalbe. Et quæ post mortem prædictorũ I. & M. fil' & hered' prædicti I. ꝑfato B. &c. so that they are seised euery one shalbe made heire to another, but when they were not seised the writ shalbe. Et quæ post mortem præd' I. & VV. filiæ. Añ 19. E. 2.

In a Formedon in the discender by assent of the parties, a deede was shewed to proue the gift, and it was such. Sciant &c. quod ego Hugo Blont dedi, concessi, &c. Hugoni B. filio Hugonis B. & filijs suis masculis de corpore suo legitime procreatis manerium de B. &c. habend', & tenend' manerium ꝓd' sibi & filijs suis mascul' de corpor' &c. de capital' dominis &c. Et qui eorum diutius vixit gaudebit in feodo & hereditat' imperpetuum. Et si contingat ꝓd' Hugonem fine herede mascul' de corpore suo legitim' procreat' obire, quod ex tunc maner' ꝓdict' &c. mihi & hered' meis reuertatur imperpetuum, & vpon this deede it was demurred in iudgement if the donee hath fee simple, or fee taile, & the opinion of the court was that it was good taile. T. 11. H. 2.

¶ A writ de Forma donationis in the remainder.

REx vic' saluť. Pr' A. ỹ &c. redd' B. vnum mes. cũ pertiñ in N. quod E. dedit D. et her' de corpore suo exeunt'. Ita quod si id' D. sine her' de corpore suo exeuntibus obierit ꝓd' mes. pref. B. & hered' suis remaneret. Et ỹ post mortem præd' B. præf. B. remanere debet per form' donationis præd' eo quod ꝓdict'

D.

D. obijt sine hered de corpore suo exeunte, vt dic'. Et nisi fecerit &c. Teste &c.

This writ lyeth where lande or tenement is geuen for terme of lyfe or in tayle to a man, and for defaute of issue of his bodye to remaine to another man, as afore is sayde, in fee, or for terme of life, then if the tenant for terme of lyfe dye, or the tenant in tayle dye without issue of his body, & a straunger enter, he in the remainder shall haue the sayde writ. And in case ꝑ the remainder be graunted in taile, and he in the remaynder dyeth seised by force of the remainder, the issue of him in the remaynder shall haue no other writ but a writ of Formedon in ꝑ discender, but if he in the remainder was neuer seised, the issue shal haue a Formdon in the remainder and not in the discender. And it is sayde, where land is let for terme of life, the remainder ouer, & the tenant for terme of life is impleded, & bouch to warrãt his lessor &c. & the tenant for terme of life recouer other land in value, he in the remaynder after the death of the tenant for terme of life shal recouer by a Formdon in the remainder those lands so recouered, as well as if the tenant for terme of life had continued his estate in those landes recouered against him, for that, ꝑ the tenant for terme of life recouered to the value by the same taile vpon which the remainder was tailed. Otherwise is of a reuersion, for that, ꝑ he hath recouered vpon another dæde then vpon the dæde by which the reuersion was graunted, but if the tenant had bouched him

to whom the reuerſion was graũted becauſe of the reuerſion, and he had vouched ouer the leſſor, and had recouered to the value, the reuerſion ſhalbe to him to whom the reuerſion was graunted & not the leſſor. And note ye, that if tenant in taile make a feoffement with warrant, or releaſe with warrant, & dye without heire of his bodye, ſo that he in the remainder is heire to him, he ſhall be barred without diſcent of alletes, for that, that this warrant is not reſtrayned by the ſtatute. And if the tenant for terme of lyfe make a feoffement with warrant or releaſe with warrant, and die without iſſue, ſo that he in ꝑ remainder is heire to him in a Formdon in the remainder he ſhal be barred by the deede with warrantie, except that the warranty be defeated in the life of the tenant for terme of life.

And note yee, that after the view the tenant ſhall be receyued in a Formedon in the remainder to demaunde what he hath in the remainder, and except that he hath writting to ſhew all times hanging the plee, he ſhalbe barred, and yet the tenant may take no iſſue vpon the deede but ought to aunſwere to the gift, & if the ſaid writ bee brought by him to whõ the remainder was tayled after ꝑ death of the tenant for terme of life. if he demaunde fee ſimple, or fee taile, he ought to lay the eſplees in the perſon of the donor, as of fee ſimple, and in the perſon of the tenant for terme of life as of free holde, but if hee demaunde by remainder but for terme of life, he ſhall laye

the

the esplees onely in the person of hym that made the deede.

If the remainder be tailed to a woman and shal take a husband, the writ shalbe remanere debet to the husband and to the wife, and so it is of a Formedon in the reuerter, but in a Formedon in the discender, it shalbe to the writ onely. H.29. H.6.

In a Formedon in the remainder, the tenant demaunded what he had of the remainder, and so the other said, that he brought assise of Nouel disseisin of the same lands, and the tenant in the assise pleaded in barre, & he made title of the same gift, and the gift was found, the demaundant was iudged personable by the recouery to maintaine this action without shewing other deede, & yet the pleintife tooke nothing by the assise, for that that it was founde that the pleintife was not disseised. P.10. E.3.

In a Formedon in the remainder, the partie neede not shew no deede vnto the partie demaundant what he hath of the remainder, but if executors bring an action they ought to shew the testament without desire of the party defendant, for the court shal not holde plee, except that the testament be shewed, and that in debt. Añ 36. E.3.

¶ A writ de Forma donationis en le reuerter.

REx vic' salutem. Prec' A. quod &c. redd' B. vnum mes. cum pertiñ in N. quod E. pater præd' B. cuius heres ipse est dedit D. & I. vxor eius, & hered' de corporibus suis exeunt. Et quod post mortem ipsor

ipſof D. et I. ad prefat B. reuert debet per form̃ donationis præd eo q̃ p̃d D. et I. obierunt ſine hered de corporibus ſuis exeuntibus vt dic'. Et niſi fecerit &c. Teſte &c.

This writ lyeth where lands or tenemẽts are geuen in the tayle as afore is layde, if the tenant die without iſſue where there is no remainder, & a ſtraunger enter in the ſaid tenements, the donour or his heire ſhal haue his recouery by this writ. And note ye, that this writ lyeth after the death of no tenant but after the death of tenant in tayle. And note ye, that in this writ the eſplees ſhal be layde in the perſon of the donour, and in the perſon of the donee. And the proces in theſe three writs is Somons, graund Cape, and petit Cape.

In a Formdon in the reuerter the tenant ſaid, that the gift was made to the donee and to his heires, and aſſignes, iudgement of the actiõ, & that was holden no plee without trauerſing the gift. T. 2. H. 6.

In a Formedon in the reuerter, the tenãt ſayd that the gift was made to him to whom ye ſuppoſe the gift in fee with warrãt, iudgment if contrary the deede &c. T. 17. E. 3. T. 33. E. 3.

Note ye, that if the donor hath iſſue two ſonnes, and the eldeſt ſonne die without iſſue in the life of the father and after the father dyeth, if the yongeſt ſonne bring a Formdon in the reuerter, he ſhal not make mention of his brother, except that he ſuruiued his father. M. 18. E. 2.

¶ A writ de Partitione facienda.

REx Vic' salut. Si A. fecerit tunc sum &c. B. quod sit &c. tali die ostensurus, Quare cum idem A. & B. insimul & pro indiuiso tenent quendam boscum in N. cum pertinentijs de hereditat, quæ fuit I. patris prædictorum A. & B. cuius hered' ipsi sunt in N. id' B. ad partitionem inde inter eos secund' legem & cons. regni nostri Angl' faciendam contradic' & eam fieri non permittit minus juste vt dic'. Et habeas ibi &c. Teste &c.

THis writ lyeth in case where a man is seised of lands and tenements in fee, and hath two daughters and dieth, or seised of land in Gauelkinde & hath issue ij. sonnes, & the one will not make partition of the landes so discended, the other that will make partition, shal haue this writ against her, or him that will not, for that, that they are heires to the said man iointly &c.

In a Partitione facienda against T. and B. his wife, of lād that discended to them as cosins & heires to one R. the tenant sayde that R. in his life enfeoffed one I. in fee, which I. infeoffed the sayde T. in tayle without that, that the plaintife, & B. wife of the sayd T. held in common or vndeuided the day of the writ purchased or euer after, and this is a good barre. Ań 39. H. 6.

In a Partitione facienda of land & rent the tenant said that the auncestor enfeoffed a strāger of the land whose estate the tenant hath, & as to the rent, he said that he was sole tenant, wout that, that he holdeth vndeuided, & the plee was challenged in so much ỹ he hath

no

no title to the lande by any feoffement nor o-
ther title and shalbe intended tenant as the
writ supposeth, & the opinion was, that the
plee is good. M. 4. H. 7.

Note ye, that it is said, that tenant in cō-
mon ne iointenant shall not be compelled by
the law to make partition, but if it be made
by agreement, it is good aswel without deede
as with deede M. 3. H. 4.

A writ of Particione facienda brought by the
husband and the wife against the other par-
tener, and declared howe the husbande and
the wife as in the right of the wife, and the
other partener held in common certain lande
& conueied the discent from the cōmon aun-
cestor &c. the partener came by gardeine: for
that, that she was within age, and might not
deny that they helde in cōmon by the maner,
but Herle sayde, that he could not see howe
the partition can be made as longe as shee is
within age by writ: but out of the Court it
may well bee as in the Countrey: for that,
that she may defeate it when she will. M.
8. E. 3.

¶ A writ de Premunire facias.

REx vic' Cantuar' sal'. Cum in statuto in parlia-
mento domini Regis Angl' secundo apud VVin-
ton Anno regni sui 15. tento edito inter cetera or-
dinat' sit & stabilit', quod si aliquis impetrauerit aut
pcutus fuerit seu impetrari vel pcqui fecerit in cur'
Rom' vel alibi aliquos processus, summonias, excō-
municand', bullas, instrumenta, vel alia quecunque

que

quæ tangunt nos, coronam regalem, ſeu regnum noſtrum, & illi qui ea in dictum regnum noſtrum detulerint, aut ea receperint, vel ind' notificationem, ſeu aliam executionem quamcunque infra idem regnum noſtrum, ſeu extra, fecerint: ipſi notarij, procuratoꝛ, manutentores, abettatores, faultores & conſiliarij ſui extra protectionem noſtram ponant, & terꝛ, tenementa, bona, & catalla ſua ſint nobis foꝛiſfact. Et quod ipſi per corpora ſua attachient, ſi poterint inueniri, & coram nobis & conſilio noſtro ducantur, ad reſpondendum ibid' ſuper caſibus ſupradictis, vel proceſſus fiat verſus eos per premunire facias modo quo ordinatum eſt in alijs ſtatutis de prouiſoribus, & alijs qui in alienis cur', in derogationem regaliæ noſtræ proſequuntur, prout in ſtatuto predict' plenius continet. Iamq; ex graui querela VV de E. acceperimus, quod licet cognitiones placitorum tranſgreſſionum, contemptuũ, aliorumq; laicorum contract' quorumcunque infra regnum noſtrũ Angliæ qualitercunque fact', et ꝓpetrat' ad nos, coronam & dignitatẽ nr̃as ſpecialiter pertineat: Quid' tñ Robertus C. nuper de VV. in com̃ tuo ſtatutum præd' minime ponderans machinans nos & coronę noſtræ exheredit', & cognitionem huiuſmodi placitorum de tranſgreſſionibus, quæ ad nos & coronam noſtram ſic pertineant, ad illud examen extra regnũ noſtrum prædict' trahere, et prædict' VV. ac alios de ſubditis noſtris indebite pregrauare, & aduerſus curiam Rom̃ ſe diuertebat, & ibid' abſque licentia noſtra adhuc reſidet, atque quamplures proceſſus, ſententias & citationes verſus i: ſum N. ad ipſum VV. ac alios de ſubditis noſtris p̃d extr' reg. noſtr' p̃dictum trahendum ad reſpondendum præfato præpoſito in dicta curia Rom̃ extra regn̄ noſtr' Angl', de

qui-

quibusd' trãsgr̃ sibi (vt dic') illatis ac quãplura al' nobis & coronæ nostrę preiudicialia ibidem prosecutus fuit, eaq; per I.R. nuper de C. Gent̃ apud VV. pronunciari, publicari, notificari, et exec' demandari fecit, et fieri procurauit in nostri cõtemptum et preiuditium, et exheredationis coronæ nostrę periculum manifestum, et ipsius w. dampnum non modicum et grauamen, ac contra vim, formam et effectum statuti prædicti. Nos statutum illud inuiolabilit̃ obseruari, et illud impugnantes, iuxta eorum demerita, castigari volentes et puniri, Et quia prædict̃ VV. fecit nos secur̃ de clam̃ suo pros. per A. B. C. D. & F. tibi precipimus, quod per bonos et legales homines de balliua tua Premunire facias prefat̃ prepositt̃, et I. R. procuratorem, manutentorem, faultorem, cõsiliarium, auxiliatorem, et abbettatorem ipsius prepositi in hac parte: quod tunc sint coram nobis a die Paschæ in xv. dies, vbicunque tunc fuerimus in Anglia ad respondendum tam nobis de contemptu et preiudicio prædict̃, quam prefat̃ w. de dampnis et iniurijs sibi in hac parte illatis. Et ad faciend' vlterius et recipiend', quod curia nostra considerauerit in premissis. Et habeas ibi nomina eorum per quos eos premunire facias, & hoc breue, Nos de die et loco, quibus dictam premunitionem sibi feceris, sub sigillo tuo distinct̃ et aperte tunc certificans &c. Teste &c.

This writ lyeth where any prouisor sueth proces to the court of Rome against the presentee of the king or of any other patron, then the presentee of the king or other patron shal haue this writ which shall bee directed to the shirife: commaunding him to warne ỹ prouisor, that he disturbe not the presentee

of

of the king or of any other person. And these prouysors, procurators & notaries shalbe attached by their bodies, and put in prison vntill such tyme that they haue made fine and raunsome to ỳ king, & gre to the party. And after that they haue made raunsome, & gre yet after that they be deliuered they shal find suerty that they shal not sue by themselfe ne by other in the court of Rome ne other places for such imprisonment & raunsome. And if those prouisors, attorynies, executors, procurators, notaries may not bee founde then the exigent shalbe awarded against them and a writ shall go to take their bodies aswell at the suit of the party as of the king, and in the meane time the king shall haue the profites of the sayde benefice so by such prouysours occupyed, except abbasses, pryouries, and other houses that hath Colledge or Couent. And that is geeuen by the statute de Anno 20. E. 3. in the myddest. Looke more of thys matter in the laste Chapter of the same yere. And also in the 27. yere of the same king.

Note ye, that a Quare impedit brought by the king, and he declared that the defendant him disturbed by prouision sued to the court of Rome, and are at issue vpon that point, & founde for the king, yet the iudgement shall not be geeuen according to the statute, nor the partye shall not haue the payne that is geeuen by the statute, but it is great euidence in the other writ brought vpon the statute 9. 3. H. 6.

Note

Note yee, by the opinion of many, a man may haue this writ against one, as procurator against another as Councellor, & against the third attorney, & the damages shalbe taxt seuerally. Añ 36. H. 6.

In this writ some made default, and some appeared: & for that, ẏ the writ was naught it was abated, & no iudgement geuen against them that made default. And the statute is in curia Rom̃ vel alibi, the which alibi is to entende in the Bishops court: for if a man be sued there for a thing that belongeth to the common lawe, he shall haue a Præmunire M. 5. E. 3.

And note ye: that it hath bene the opinion of many, that if a Clerke sue another Clerk, or other man in the court of Rome, of a thing spirituall where he may haue remedy of that in his Ordinaries court within the Realme, that is within the statut, but I beleeue that it is no law. If a lord in Court baron holde plee of dett of xl. s. or aboue which ought not to be demaunded but in the kings court, it is said that the lord shalbe in case of a Præmunire. P. 9. E. 4.

¶A writ de Quare ei deforc'.

REx vic' salutem. Prec' A. quod &c, redd̃ B. vnum mes. cum pertiñ in N. quod clamat esse ius de rationabili dote sua vel quod clamat esse ius ad maritag. suum, vel quod clamat teneř sibi et hered' de corpore suo exeunt̃, vel quod clamat tenere ad terminum vitę suę & quod idem A. ei deforc'. Et nisi &c.

&c. non dicatur iniuſtè deforceat: Car le iniuſtè non habetur in ſtatuto. Nota quód pro tenente per legem Angliæ non continetur breue in ſtatuto ſicut alibi poteſt manutenere per illud ſtatutum in conſimili caſu.

THis writte lyeth where tenant in taile, frankmariage, wwer, curteſie, tenant for terme of life, for terme of an other mans life loſeth by default their lands, the themſelues ſhall haue this writ againſt him that recouered, or againſt his heire; or againſt what perſon ſoeuer he in the tenancie.

And note ye, that this writ in his nature is a writ of right for the forſaid tenants, for a writ of more hie nature then this, may they not haue for their tenements. And note ye, ꝑ this writ lieth for no other perſon, but for him ꝑ loſt the ſaid lands: & is geuen by ꝑ ſtatute of W. 2. ca. 3. in the end. And ꝑ Pro-ces is Somons, grand Cape & petit Cape.

Note ye, that vpon a recouerie by default in a writ of walt, Quod deforceat lyeth not but a writ of Diſceit. C. 21. H. 6.

If lands be let to a woman ſole for terme of life with warrantie, & ſhe taketh a huſband, and they loſe by default, a Quod ei deforceat lieth not during the life of ꝑ huſband, for the writ ſupoſeth that they haue loſt, where the huſband hath nothing but by reaſon of his wife, ſo was he not tenãt for term of life, & alſo they ſhal not haue the voucher, for the writ ſupoſeth, quod clamat ad vitam of the wife: in which caſe the Statute gæueth no ſuch vouches, but where the tenant

by curteſie in taile, or for terme of life loſt &c. and the huſbande is none of thoſe. But in this caſe the wife ſhall haue a Cui in vita after the death of the huſband, but if they had a ioint eſtate, then the Quod ei deforceat lyeth. M.4.E.3.

A man hath iſſue ij. ſonns, and is ſeiſed of land tailed in Gauelkind that is partible betwixt heires males, & dieth, & they enter and loſe by default, they ſhall ioine in a Quod ei deforceat, & the writ ſhalbe quod clamat tenere ſibi & hæredibus de corporibus eorum &c. And it is impoſſible that they ſhall haue iſſue betwixt them. M.46.E.3.

And note yee, that the demaundant ſhall not declare of whoſe gift, nor the tenant ſhal not haue hearing of the record, if a man recouer by default in a Scire facias. But of a fyne againſt tenant in tail, & he brought a Quod ei deforceat, and the other mainteyned the title of his firſt writte: the tenant in tail may vouch, and yet in the Scire facias niſi no voucher lieth &c. M.29.E.3.

A writ de warrantia Chartæ.

REx vic' ſal. Pr̃ A. quòd iuſtè &c. warrantizet B. vnſi meſ; cum ptiñ in C. q̃ de eo tenere clamat & vnde carẽ ſuam habet, vt dic'. vel ſic: vndè cartam C. patris, matris, fratris, ſororis, & ſic de ſingulis, cuius hæres ipſe eſt, vt dicit &c.

THis writ lieth where a man hath enfeoffed mee in certaine landes or tenementes with clauſe of warrantie, or releaſeth or confirmeth my eſtate with clauſe of warranty,

and

& the tenant is impleaded of the same lands, or tenements of a stranger, then if the tenāt may not vouch to warrantie he shal haue the said writ against his feoffor or his heyre.

And note ye, that if this plee be not begun during the first action, the tenant shall bee barred for euer to haue this writ. Quere.

And the Proces is in this writ Somons Attachment and Distres infinite: and if hee come and pled, & after make default, then shal go the graund Distres in the place of the petite Cape.

In a writ of warrant of Charters, the plaintife declared that the defendant him enfeoffed, and that he was impleaded, and hee prayed the defendant to warrant &c. And the defendant sayd that the plaintife was not tenant the day of the writ purchased, iudgement &c, And the plaintife said that he is tenant of the land, and hath the deed of the defendant, and that was allowed: but hee was compelled to say, that he was tenant the day of the writte purchased &c. But if hee had sayd at the first, that hee was tenant by his warrant the day of his writ purchased, that had ben verie good to dereygne the warranty T.4. Ed.4.

If a man recouer a warrantie by a writte of warrant of Charters, and after hee is impleaded in such an Actyon that hee may vouch, if he vouch not he shal not recouer in value by force of the derainment of the warrant, & it was sayd, that if tenant in taile of rēt charg relesse the rent to ye tenant of ye lād

and the tenant make a feoffement of the land with a warrant, the warrant extendeth to the rent, for that that the tenant was seised of the land discharged.

A writ of Diem clausit extremum.

REx dilecto et fideli suo escaetori suo in com̃ L. salutẽ. Quia A. de B. qui de nobis tenuit in capite, diem clausit extremum, vt accepimus, vobis mandamus, q̃ omnia terras et tenementa de quibus id̃ A. de B. fuit seisitus in dñico suo vt de feodo, in balliua tua die quo obijt fine dilat̃ capias in manum nr̃am, et ea saluò custodiri fac', donec aliud tibi mandam⁹ et per sacramentum ꝓborum et legaliũ hominum de balliua tua ꝑ quos rei veritas melius sciri poterit diligenter inquiras, quant̃ terr̃ et tenemẽt̃ A. de B. de nobis tenuit in capite, tam in dñico q̃ in seruitio in dicta ball' tua die quo obijt, et quantũ de alijs, et per q̃ seruitium, et quant̃ terræ et tenemẽta illa valeant per annum in omnibus exitibus, et quo die idem A obijt, et quis propinquior hæres eius sit, et cuius etatis. Et inquisitionem indè distinctè et apertè factam nobis in Cancellaria nostra sub sigillo tuo et sigillis eorum ꝑ quos fact' fuerit sine dilatione mittas et hoc breue. Teste &c.

THis writ lieth by the statute of Marlb. chap. 16. which beginneth, Si aliquis hæres &c. where a man holdeth his lande of the Kinge as of his crowne by knightes seruice, and dieth, he that is next heire, or any man, for the Kinge may sue thys writte to the Eschetor of the Countie where the land lyeth, and hee shall inquire who is his next heyre

heire the quantitie of the landes, and the ba-
lue, in this writ is no Proces, for it is but
a writ of office.

Note ye, that if it be found diuers offices
in diuers counties, s. in one countie that the
heire is within age, in the other that the
heire is of full age: that that is best for the
king shalbe taken & the heire shall haue no
trauers to that. M. 33. H. 6.

If a man hold of the king by homage and
fealtie for all maner of seruices & dieth, his
heire of ful age, & sue a diem clausit extremum, &
it is found afore the eschetor, that he holdeth
of him by homage, fealtie & xl. li. if he sue li-
uerie according to the enquest, he shal be con-
cluded during life. 44. Li. Ass.

And note ye, that there are fiue maners of
enquiries ordayned after the death of the
kinges tenant. One is Diem clausit extremum,
and that is immediat after the death of the
tenant. The second is Melius inquirendo, and
that is where the Eschetor or the tenaunt
in the Diem clausit extremum dyeth, or where
the Diem clausit extremum is not returned.
The third is Quę plura, & that is where any
lād is let out. The fourth is Deuenerunt, & ꝑ
is where ꝑ ward dieth. The fift is Mādamus,
& that is after the yere. An. 4. H. 7.

A writ of Etate probanda.

REx escaetori suo in com̄ D. salutem. Quia VV.
de B. filius A. de B. qui de Castro nostro de R.
tenuit per seruitium militare dicat se plenę etatis
esse, et ꝓ̄ a nobis terras et tenem̄ta sua q̄ fuer̄ de her̄

ſua ſibi reddi, ꝓ quod volumus quod id̄ w. apud C natus, et in eccleſia eiuſdem villæ baptizaꝝ, vt dicit, ætatem ſuam ꝓbet coram te, Tibi præcipimus qđ ad certos diem et locum, quos ad hoc ꝓuideris ꝓbationem illam ꝓ ſacramtum tam Militum q̄ aliorꝫ ꝓborum & legaliū hominū de balliua tua ꝑ quos ꝓbatio illꝰ & veritas ætatis p̄d melius ſciri poterit & inq̄ri, capias, & probationem illam ſic captam nobis ſub ſigillo tuo & ſigillis eorꝫ ꝑ quos capta fuerit ſine dilatione mittas, & hoc breue. Teſte &c.

This writ lyeth where the heire of the kings tenant by the writ afore ſaide is found vnder age, & when he commeth to his full age he ſhall haue this writ, whereby hee ſhal proue his full age: & this writ hath no proces for that, that it is a writ of office. And note ye, that thoſe of the Chancerie hold for law, that if the heire ſue his lands out of ꝑ kinges hands, which was ſeiſed by reaſon of his nonage, then he ought to ſue this writ in euery countie where that he is found within age, as it appeareth T. 20. E. 3.

And note, ꝓ euery one that paſſeth in this enqueſt ſhall be of the age of xlij. yere at the leaſt, ſo that he was of full age at ꝑ time that he that ſueth the writ was borne.

A writ de Quo minus.

REx vic' ſal. Precip̄ tibi qđ non ꝓmittas B. facere vaſtū ſeu diſtruc̄ in vaſto ipſus B. in N. quo minus A. rationabile eſtouerium ſuū in vaſto illo habere poſſit, ſicut illud habere debet & ſolet, vt dic', & ſicut rationabil' &c. ne amplius inde clamorē audiamus ꝓ defectu iuſtitię. Teſte &c.

This

This writ lyeth where a man hath graunted to another housbote or haybote in hys woods to take euerie yere, & he that grauntheth may not haue his reasonable estouers, then the graunton shall haue this writ, and it is in the nature of a writ of wast. And the Proces is Attachment and a Distres peremptorie.

Note ye, that Housbote is called certayne Estouers in an other mans woods to amend a house, & haybote is called certaine Estouers to amend hedges.

A writ de Ad quod dampnum.

REx tali escaetori talis com salutem. Præcip tibi qđ p sacramentũ proborum et legal hominum d' balliua tua, p quos rei veritas melius sciri poterit, diligenter inquiras, si sit ad damnum vel præiudicium nostrum, vel aliorum si concedamus dilecto nobis in Christo magistro et fratribus sancti Iohannis Ierusalem in Anglia, quod ipse vnum tostum cum pertinentibus in N. per feoffamentum I. et vnam acram terræ cum ptiñ in M. per feoffamentum B. q̃ idem magister et fratres de p̃d I. et B. post stat̃ de tris et tenemtis ad manum mortuam non ponend, ædiſ, acquisiuerunt, et quæ occasione eiusd statuti nostri cepistis in manum nostram tenere posuit eisdem mro et fratribus et succeſſ. suis imppetuum iuxta formam feoffam̃ prædictorum, necne, et si sit ad damnum vel præiudicium nostrũ vel aliorũ, tunc ad quod damnum, et quorum, qualiter, et quo modo, et de cuius feodo tostũ illud et tra sunt, de quo vel quibus teneantur, et p quod seruiſ, et quantum valent per annum in omnibus exitibus. Et si terræ

et tenementa ꝑdictorum I. et B. remanent, vltra prędicta terras et tenementa magistro et fratribus prędictis sic acquisit̃ ſuffic' ad ſeruitia et conſ. tam de prędc̃ tenementis sic acquisit̃, q̃ de tenementis ꝑdictor̃ I. et B. retenẽ debit̃ fac. et ad omnia alia onera &c. Et quod ijd̃ I. et B. in aſſisa &c. prout ante feoffamẽt predictum poni conſueuerunt, Ita quòd patria per feoffamenta illa in ipſorum I. et C. defectum magis ſolitò oneretur ſeu grauetur, et inquisitionem indè distinctè et aptè factam, nobis in Canc. nſra ſub ſigillo tuo et ſigillis eorum ꝑ quos facta fuerit, ſine dilatione mittas, et hoc breue. Teſte &c.

THis writte lyeth where a man ſelleth or geeueth land or tenement to any houſe of Religion in Mortmaine, at the beginninge it is conuenient that this writte be ſent to the Eſcheator of the ſame Countie where theſe landes or tenements are, to inquire the extent of the landes, and what preiudice ſhal be to the king and to the chiefe lord, if they bee ſolde to Mortmaine. And when the Eſcheator hath inquired theſe poyntes and other circumſtances compriſed in the writte, hee ſhall retourne the writte according as it is found by the Enqueſt: And after that hee ſhall make fyne to the Kinge, for the alyenation of the landes and tenementes. And then hee ſhall haue a Charter of lycence: For the Statute de Religioſis will that no man ſhall ſell landes or tenementes to Mortmayne. Se no man ſhall take lands in ſuch maner, and if he do, the land ſhalbe ſeiſed in the kings hand as Eſcheat. And loke Magna Charta chapter 36. which beginneth: Non

liceat

liceat alieni &c. And the ſtatute of Weſtminſter 2. Capitulo 32. which beginneth, Cum viri religioſi &c.

A writ de quo warranto.

REx vic' ſal. Sum per bonos ſum A. quod ſit coram iuſtic' noſtris apud V. Veſtm tali die oſtenſ. quo warranto tenet viſum franci plegij in vill' de R. in præd' hundredo noſtro de B. ſine licentia & voluntate noſtra vel prædeceſſorum noſtrorum quondam regum Angliæ, & emendas pro tranſgr' aſſiſæ panis & ſeruitiæ in eadem cepit in præiuditium noſtrum non modicum & grauamen, vt dic'. Et habeas ibi ſum & hoc breue. Teſte, &c.

THis writ lieth where a man vſurpeth certeine franchiſes againſt the king, as to haue waiffe, ſtraiffe, market, faire, court baron, or other ſuch like without good title, and without the kings licence, and that be preſented afore the Iuſtices of Eire, when they are in thoſe parties where ſuch tranches are vſurped, then ſhall go the foreſaide writ for the king to the ſhirife, that he cauſe him to come that hath vſurped the franches, at a certaine day afore the ſame Iuſtices, and if he may not ſhewe a good warrant, or that he come not, then the king ſhall take from him his franchiſes. And note ye, that this writ may not be determined afore any Iuſtice, but the Iuſtice in Eire, and no proces lyeth in this writ but he ſhall be warned vpon his perill.

Note ye, if the king graunt to any man franches to haue a gaol, if he will not make

coſt

coſt to haue deliuerance, but holde the people in priſon that are taken for ſuſpect, the king hath cauſe to ſeaſe the fraunches in his hand though he haue leet with his franches, ſo that he may enquire of ſuch felons, & he hath no power to deliuer them, but they ought to be deliuered afore Juſtices of the gaol deliuerie. H. 8. H. 4.

If a man hath a market to holde euerie weeke on the Fryday, and he holdeth the market both on the Friday and on the Monday, in this caſe nothing ſhall bee forfeited, but that that he hath vſurped, but if a man hath a Faire to holde two dayes, and he hold the Faire three dayes, he ſhall forfeit all for that, that he hath miſuſed the Fraunchiſe. And if a man hath a Faire to hold the Friday, and he holdeth that on the Monday, the fraunchiſe is forfait, and he ſhall make fine for the miſuſer. Anno 22. Liber aſſiſarum, placito 34.

A writ de Idemptitate nominis.

REx Theſaur' & Baronibus ſuis ſalutem: cum A. per ſum' noſtram diſtringat' in com' H. ad ſoluend' vi. marcas ad opus noſtrum, per quod breue in Cancell' noſtra per ipſum A. impetratum, vt dic'. Et idem A. nullum breue in Canc' noſtra pro fine nobis preſtand' impetrauit, ſed pro idemptitate cuiuſdam hominis idem nomen & cognomen portantis de eodem com' exiſtent' per miniſtros eiuſdem vic' ad eandem pecuniam nobis præſtandam diſtringatur vt aſſerit: vobis mandamus quod fiet deſuper diligenter inquiſitio, ſi inueneris ita

eſſe

eſſe, tunc miniſtros prædictos ad diſtringendum prædictum A. occaſione prædicta de cetero faciendum diſtrictè fac'. Et diſtr' ſi quâ ea occaſione feceris ſine dilatione deliberari fac'. &c. Teſte, &c.

THis writ lyeth in caſe where any writ of Debt, Treſpas, Couenant, Accompt, or anye ſuch like is ſued againſt a man, and another man that hath the ſame name as he hath againſt whome the writte is brought, be taken for him, then he that is ſo taken ſhall haue this writ, by vertue whereof the Shirife ſhall make inquirie afore Iuſtices aſſigned in the ſame countie, if he that is ſo taken or diſtreined be guyltie or not, and if he be not guyltie, he ſhall go quit. And if he be guyltie, as the writ ſuppoſeth, hee ſhall aunſwere the partie that ſued the firſt writ, and in the ſame manner may this writ be ſent to the Iuſtices of the common banke, or to the Treaſourer and Barons of the Eſchequer, and to Eſchetours, vt ſupra.

A writ de Recto ſur diſclaimer

REx vic' ſalutem. Pone ad petitionem petentis coram Iuſticiar' noſtris apud VVeſtm loquelam quæ eſt in comitatu tuo, per breue noſtrum inter A. & B. de auerijs ipſius A. captis, & iniuſte detentis vt dic'. Et ſum &c. præd' B. quod tunc ſit ibi ad reſpondendum præfato A. & ſeruic' ſibi debit' facias. Et habeas &c. Teſte &c. Cum iſta clauſula, quia talis diſtr' de feodo ſuo pro conſ. & ſeruic' ſibi debita &c.

THis writte lyeth where the lorde in the kings court, ſ. in the common place auow

vpon

vpon his tenant, and the tenant disclaime to hold of him, vpon this disclaimour the lord shall haue this writ, and if the lord may auerre and proue that the land is holden of him, he shall recouer the land for euer, but where the tenaunt disclaimeth in court baron or in the countie, the lorde shall bee amerced, and shall not haue this writ, for that, that the disclaimour is not of recorde, and all this prouyeth the Statute of Wellm 2. Cap. 2. which beginneth, Quia domini feodorum &c. And the Proces in this writ is Sommons, Graund Caye, and Petite Caye.

Note yee: in what writtes disclaimour lyeth: in a Per que seruitia, the tenant shall not disclaime, for the demaundant may not recouer the lande if it bee found against the tenaunt: for that, that he demaundeth nothing but attournement. P. 4. E. 4.

In a Cessauit, the tenaunt shall not disclaime, but he shall saye that hee holdeth not of him.

Note ye, that in auowrie the husband and the wife may not disclaime, and for that the wiues land shalbe lost. P. 10. E. 4. 1

Note ye: that he in the reuersion and the tenant for terme of yeares may disclaime against a bailye. M. 12. E. 4.

Note ye, that the tenant in fee simple may not disclaime against the tenant for yeares of the seigniorie. M. 9. E. 4.

Here

Here beginneth the Iudiciall writs, that are grounded vpon recoueries in the ſaid writs.

A writ of Scire facias.

REx vic' ſalutem. Cum H. R. in cur' &c. tali die & ann' recogn' ſe deber' A. B. C. li. quas ei reddidiſſe debuit in feſto S. Martini tunc proxim' ſequen' & idem H. R. prædict' C. li. eidem A. nondum reddidit prout ex graui querela ipſius A. accepimus. Et quia volumus ea quæ in dicta curia noſtra recte acta ſunt debit' executioni demandari, tibi præcipimus quod per probos &c. Scire fac' prædict' H. R. quod ſit coram &c. tali die &c. oſtenſur' ſi quid pro ſe habeat vel dic' ſciat quare prædict' C. li. de terris & catallis ſuis in balliua tua fieri prædict' A. reddi non debeant ſi ſibi viderit expedir'. Et habeas ibi nomina eorum per quos ei ſcire feciſti, & hoc breue. Teſte, &c.

THis writ is Iudiciall, and lieth where a man hath recouered det or dammages by iudgement in the kings court, and goeth out of the record after the yere and day of the firſt iudgement, then for that, that it may be ſuppoſed that he hath made releaſe or other acquitance of that, that he hath recouered, he ſhal haue this writ, by which writ the partie ſhall be warned that he be afore the Iuſtices at a certaine day to ſhew why execution of ꝑ iudgement ſhall not be made, and if he come not at the day, or if he come and can nothing ſay, but the execution ſhalbe made according as

as he hath recouered, then he that recouered shall haue a writ of Fieri facias to the shirife, that he make execution of the iudgement to the pleintife, & that is by the statut of Westm 2. Cap. 45. which beginneth, Quia de his quæ recordata, &c. And that wil that no proces nor delay be in the said writ, and of that, that is founde inrolled afore the Iustices of the common banke as of fines leuyed, contracts, obligation, and recognisances that are recouered afore them, and enrolled in the kings court, the partie that is greeued neede not sue a writ at the common law, but he may go to the record and if the recognisance be within the yere and a day, then he shall haue a writ of execution to execute the same recognisance that was made afore the Iustices of record, and if the yeare and the day passe after the cognisance made, then he shall haue a Scire facias to the shirife, that he cause the partie to come at a certeine day, as it appeareth by the said statute.

Note ye, that in these cases a man shall haue a Scire facias within the yeare. If a man recouer det against a woman that is vnmaried, and within the yere shee take a husband in this case he that recouered shall not haue a Fieri facias for he may not sue execution of the goods of the husbande, but he shal haue a Scire facias. M. 34. E. 3.

If a man of religion recouer dammages & dyeth within the yere, his successor shal haue a Scire facias and not a Fieri facias though that it be within the yere. M. 24. E. 3.

Note

Note that it was ſaid that a man ſhal not haue other execution of rent ſeruice recouered, but to diſtraine, Quere. A Scire fac. brought againſt iſ. of dammages where the ſhirife returned, that the one was warned, & that the other hath nothing, and the plaintife prayed execution at his perill, and it was ſaid, that in ſo much, that the one was warned he may not haue execution afore the proces determined againſt the other. 9. I. H. 5.

A writ of Fieri facias.

REx vic' ſalutem. Præc' tibi quod de terris & cat' B. in balliua tua fieſ fac' C. li. & eas habeas coram Iuſtic' noſtris apud VVeſtm tali die ad reddendum A. quas ei in curia noſtra coram Iuſtic' noſtris per conſidē eiuſdem curiæ noſtræ adiudicat' fuerunt pro dampnis ſuis, quæ habuit occaſione quod præd' B. eum iniuſte impediuit preſentare idoneam perſonam ad eccleſiam de R. prout p quand' inquiſitionem quam per te nuper fecimus conuictus fuerit, Teſte, &c.

THis writ is Judiciall and lyeth where a man hath recouered dett or dammages in the kings court, then he that hath recouered ſhall haue this writ to the Shirife commanding him that he leuie the dett or the dammages of the goods of him againſt whom the recouerie was had and lyeth all times within the yere and the day, and is giuen by the ſtatute of weſtm 2. Cap. 18. which beginneth, Cum debitum.

If a Fieri fac' to leuy xx. li. be directed to the ſhirife, & he returne qd' Fieri feci x. li. quas habeo

ad

ad diem &c. at which day he hath not the money, and a new shirife is chosen, in this case he that recouered shall haue a Scire facias, against the auncient shirife, to shewe why he shall not haue executiō of the xx.li. & if he can himselfe discharge, then, he that recouered shall haue execution against the old shirife by Fieri fac', or Elegit. M.6.E.4.

If a man sue execution vpon a statut marchant, & the lands of the recognisour are extended & put in execution, & the lands are extended too hie, the recognisee may pray that ꝑ lands be deliuered to the extendors, & he shall haue execution against them by the statute of Acton Burnel: by a Fieri fac. T.11.E.3.

If a man hath iudgement in Detinue, execution shall be awarded by distresse against the defendant, and a Fieri fac. of the dammages. M.6.R.2.

A writ of Elegit.

REx vic' salutem. Cum A, quæ fuit vxor B. in cur̄ nostra coram iustic. nostris apud VV. per consideration̄ in eadem curia recuperasset versus C. de B.xl.li. quas idem C. in eadem curia nostra tali die & anno &c. cogn̄ se debere præfatæ A. vnde ei reddidisse debuit x.li. ad festum tal' &c. et x.li. ad festum tale &c. tunc proxim̄ sequens et illas ei nondum soluit vt dixit. Et postea eadem A. ven̄ in curia nostra, et elegit sibi liberari omnia bona et cat̄ præd. C. præter boues et affras de caruca sua, et similiter medietatem terrarum suarum et tenementorum suor̄ per rationabile preciū et extent̄ tenend. vt liberū tenem̄ suū iuxta form̄ stat' nostri inde prouis. quousque præ-

prædictas xx. li. inde leuauerit. Et ideo tibi præcipimus, quod omnia bona & catalla prædict' C. præter boues & affras de caruca sua, & similit' medietatem terræ & tenemētorum suorum in balliua tua eidem A. sine dilatione deliberari facias per rationabile prec' & extent', tenend' vt liber' tenet sibi & assignatis suis in forma predicta, quousq; xx. li. de prædictis xl. li. inde leuauerit, & qualiter hoc præceptum nostrum fuer' executum scire fac' Iusticiar' nostris apud VV. in octab. &c. Et habeas ibi &c. Teste &c.

This writ lyeth where a man hath recouered debt or dammages in the kynges Court, and the summe of the debt or dammages may not bee leuyed of the goodes and catalles of hym agaynst whom the debt or dammages were recouered, then he that hath recouered shal haue this writ directed to the Shirife, commaunding him that hee make deliuerie of the halfe of all the landes or tenements, and all the goodes, except Oxen and beastes of his plough.

And note, that the halfe of the said lande shalbe reasonably extended, and he shal hold the said lande, and these other goodes vntyll the said summe be leuied of the said issues & profits of the lands and goodes of the debtor and this writ is retournable.

Note ye, that an Abbot recouered damages & prayed Elegit, and it was graunted.

Annuitie was recouered, and the playntife sued the Fieri facias, and the Shirife retourned that he hath nothing, and the playntife prayed Elegit, and his prayer was denyed,

for that, that he hath chosen Fieri facias. H. 10 E. 3. T. 10. E. 3.

And note ye, if a man without plee knowledge in court him to be holden in debt to pay at a certaine day, the conisee shall not haue this Elegit, for that, that the conisor was not brought into the court by proces of the law, that is to say, by writ of debt, and so the statute of West. 2. cap. 18. is to be vnderstand. H. 2. E. 3.

¶ A writ of Habere facias seisinam.

REx Vicec' salutem. Scias quód cúm A. in curia nostra coram Iustic' &c. petierit versus N. vnum messuagium cum pertinentijs in P. postea ven̄ in eadem cur' nostra & vocauit ad warrātum R. qui quidem R. prædict' mes. cum pertinētijs in curia nostra &c. per defaltam amisit, secundum quod considerat̄ fuit in eadem curia, quod prędict' A. recuperat̄ inde seisinam versus prędict' N. et prædictus N. haberet de terr̄ prædict' R. ad valēc' ten̄ &c. Et ideo tibi præcipimus, quòd eidem A. fine dilatione plenam seisinam habere facias. Et prædict' N. de terr̄ prædict' R. ad valentiam eorundem tenement̄ cum pertinentijs in loco competenti habere, & assignare seisinam facias. Teste &c.

This writ is Judicial and a writ of Execution, and lyeth where landes and tenements are recouered in the kinges Court, he that hath recouered shal haue this writ. commaunding him to delyuer seisin, the writ is not retournable.

¶ A writ of Capias ad satisfaciendum.

Rex

REx Vic' ſalutem. Præcipimus tibi, quod non omittas propter aliquam libertatem &c. quin capias A. ſi inuentus fuerit in balliua tua, & eum ſaluo &c. Ita quod habeas corpus eius coram Iuſticiar' &c. tali die, ad ſatisfaciendum B. tam de xl.s. quos B. in cur' noſtra recuperauit verſus eum, quam de v.s. qui ei adiudicat' fuer' pro dampnis ſuis que ſuſtinuit occaſione detentionis debiti prædict'. Et habeas ibi hoc breue. Teſte &c.

THis writ lyeth where a man recouereth debt or damages in the kinges court, and he against whom the debt is recouered hath no lands nor tenements, nor ſufficient goods whereof the debt may be leuied, then he that recouered ſhall haue this writ to the Shirife, commaunding him that he take the bodie of him againſt whom the debt is recouered, and he ſhalbe put in priſon vntill ſatisfaction be made to him that recouered.

And note, that theſe fower writtes next afore, are writs of execution.

¶ A writ of Capias vtlagatum.

REx Vic' ſalutem. Præcip̄ tibi quod non omittas propter aliquam libertatem in balliua tua, quin capias R. vtlagatum in comitatu S. tali die & anno, ad ſectam B. de placito tranſgreſſ. prout &c. ſi inuentus fuerit, & ſaluo &c. Ita quod habeas corpus eius &c. tali die inde facturum & recepturum qd' curia noſtra conſider' in hac parte &c.

¶ A writ de Capias Vtlagatum, & inquiras de bonis & catallis.

REx Vic' ſalutem. Præcipimus tibi quod non &c. quin per ſacramentum proborum & legalium hominum in eodem comitatu tuo diligenter inquiras, quæ bona et catalla, terr' & tenemenť A. de B. habuit in balliua tua, die & anno &c. vel vnquam poſtea, quo die idem A. vtlagať fuit ad ſectam R. E pro compoto ſuo eidē R. D. redd' tempore quo fuit receptor denariorum ipſius R. prout Vicec' noſter Eboraceñ Iuſticiar' noſtris apud VV. in Octabis ſanctę Trinitatis nūc proxim̄ ſequenť mand', et illa per eorum ſacramentum extendi & appreciari fac', iuxta verum valorem eorundem. Et ea quæ per inquiſic' illam inueneris in manum noſtram capias et ſaluó cuſtodiri fac', et extenť, & appreciationē illam quam inde feceris ſcire fac' Iuſticiarijs noſtris apud VVeſtm̄ tali die diſtinctè et aperté ſub ſigillo tuo, & ſigillis eorum per quorum ſacramentum extenť et appreciationē illam feceris. Ac pro eo quòd idem A. vtlagať vagať & diſcurrit in balliua tua, in noſtri et Coronæ noſtræ præiudiciñ vt accepimus, ideo pręd' A. vbicunqué in balliua tua, tám infra libertates quám extra inueniri contigerit capias, et eum ſaluo cuſtodiri facias, ita quód eum habeas coram Iuſticiarijs noſtris apud VV. ad præfatum terminum, ad faciend' & recipiend' quod curia noſtra de eo conſideť in hac parte. Et habeas ibi hoc breue. Teſte &c.

THis writ lyeth where a man hath ſued a writ of Exigent, and he againſt whom the Exigent is awarded commeth not at the day of the Exigent returned, then the plaintife ſhall haue the ſaid writ directed to the Shirife of the countie (where the Exigent was awarded) to take the bodie of him that

is outlawed. And some say that a man may haue as many writs as he will, for that, that it is for the kinges aduantage.

¶A writ of Quid iuris clamat.

REx Vic' salutem. Precipimus tibi quód distringas A. per omnia terras et catall' &c. Et quod de exitibus &c. Et quod habeas corpus eius coram Iusticiarijs nostris apud VVestm̄ tali die &c. ad cognoscend' quid iuris clamat in vno messuag. cum pertinentijs in B. quod I. de T. in curia nostra concessit R. per finem inter eos facť et ad audiend' &c. Teste &c.

THis writ lyeth where I graunt the reuersion of my tenant for terme of lyfe by fine leuied in the kinges court, & the tenant will not attorne, he to whom the reuersion is graunted shall haue this writ to charge him to attourne.

And note if the tenaunt for terme of lyfe claime fee simple in the tenements, and it is found that he hath no fee simple, hee shal recouer seisin of the land. E. 10. E. 3.

And he that hath fee taile shal attourne aswel as he that hath but freehold per Mettingham, but I suppose ỳ law be contrarie. And the proces is Summons & distres infinite.

Note ye, if land be lessed for terme of lyfe, and the lessour graunt that the lessee shal not be troubled for waste, and after the reuersion is graunted to a man and his wife by fine, who bringeth a Quid iuris clamat, in this case if the lessee say that he is ready to attourne: saning to him the bauntage of the deede, it is

conuenient, that the husband and the wife knowledge the deede, otherwise the iesse shal not be compelled to attorne. T.45.E.3

In a Quid iuris clamat brought by an Infant, and such matter as afore is pleaded, the infant may not knowledge the deede. H.44. E.3.

In a Quid iuris clamat the tenant said, that the conisor held the same land of the kinge in chiefe, and demaunde iudgement without shewing the kinges lycence, and then the demaundant shewed the kinges lycence, or otherwise the tenāt should be charged with a fine for that alienation, and then the tenant attorned. H.45.E.3.

If the king graunt to me the seruice of his tenant, I may auow without attornement, for I may not haue a Per que seruitia, nor Quid iuris clamat, by Shard M.12.E.3.

¶A writ of Per que seruitia.

REx Vic' salutem. Præc' tibi quod distringas A. per omnes terras &c. Et quod de exitibus &c. quod habeas &c. tali die, ad cognoscēdum per que seruitia tenet vnum messuag. cum pertinentijs in B. quod I. de T. in curia nostra concessit R. per finem inter eos facť. Et ad audiendum &c.

THis writ lyeth where I graunt the seruices of my tenant for terme of lyfe, tenant in taile, tenant in fee simple to a stranger, by a fine leuyed in the kinges Court, thys tenant will not attorne to the same grauntee, then the grauntee shall haue thys writ against the tenant and compell hym to at=

attourne. And the proces is Summons and distres vntill the partie come.

Note ye: if the tenant holde of two in common, if the one graunt the seruices by fine the tenant shall not attourne. M.9.E.3.

The seruices of a tenant was graunted to the husband and the wife, and to the heires of the husband, and they brought a Per que seruitia, the tenant said that he hath acquitail of the conisor, and sauing to him his acquitail he is ready to attorne, and the husband knowledged to him and to his heires, so note ye, that the heire of the husbande ought to acquite the tenant after the death of the husbande in the life of the wife, for the wife may not binde her to the acquitail during the mariage. H.5.E.3.

¶ writ of Quem redditum reddit.

REx Vic' salutem. Precipimus tibi quód distringas B. per omnes terras &c. Et quod de exitibus &c. Et habeas corpus eius &c. tali die &c. ad cognoscend' quem reddit reddit, exeunt' de vno mes. cum pertin' in N. q̄d I. de F. in curia nostra &c. concessit R.S. per fineinde int' eos factum & ad audiend' &c. Et habeas &c. Teste &c.

THis writ lyeth where a man graunteth to another by fine leuyed in the kynges Court a rent Secke, or a rent charge goyng out of another mans lands, and the tenaunt of the land will not attorne to the grauntee, then the grauntee shall haue this writ against the tenaunt of the land to cause hym to attourne. And the proces is as in the

writ next afore.

And note ye, that these iij. writs are Judicial, and lyeth of fine leuied in the kinges Court.

In a Quem redditum reddit the defendaunt demaunded hearing of the deede of the graunt and the plaintife shewed the fine sur conisance de droit, & he was awarded to shew also the deede, for he ought to shew title in this writ how the rent did begin. H. 30. H. 6.

And note ye, that in these three writs next afore, it is no plee to say, that they were not tenaunts the day of the writ purchased, but ought to aunswere if they were tenauntes the day of the note leuyed, for these writs ought to be brought against him that was tenaunt the day of the fine leuyed. P. 8. H. 6.

¶ A writ of Venire facias.

REx Vic' salutem. Præc' tibi quod venire facias coram Iusticiarijs nostris &c. tali die xij. tam Milites quam alios libe' & legales homines de vicine' de N. quorum quilibet habeat xl. s. terræ & tenemen' vel redditum per annum ad minus, per quos rei veritas melius sciri poterit, et qui nec A. nec B. aliqua affinitat' attingunt ad recogn̄ super sacramentum suum, si VV. consanguineus prædict' A. cuius hæres ipse est, fuit seisitus in manen' de R. cum pertinentijs in dominico suo vt de feodo die quo obijt. Et quód idem A. in curia nostra &c. coram &c. clamat vt jus suñ versus eum sicut idem A. dic', vel non sicut prædict' B. dic'. Quia tam prædict' B. quam predict' A. inter quos inde contentio

est

eſt, poſuer ſe in iuratam illam. Et habeas ibi nomina iurat et hoc breue. Teſte &c.

THis writ is Judiciall and goeth out of the Record, and lyeth where two parties pleadeth and commeth to iſſue. s. vpon the ſaying of the countrey, then the party plaintife or the defendant ſhall haue this writ dyrected to the Shirife, that he cauſe to come xij. lawfull men of the ſame countrey to ſay the trueth vpon the ſaid iſſue taken. And if the enqueſt come not at the day of this writ returned, then ſhall go an Habeas corpora, and after a diſtres vntill they come, & when they come at the day, and the defendant challenge many of them, becauſe that they are not ſufficient to paſſe vpon the ſaide iſſue, then the plaintife ſhall haue a writ that is called Octo tales, or Decem tales, or as many as is needefull.

Note ye, that in theſe caſes following the enqueſt ſhalbe taken by default. In auowrie for rent ſeruice, the plaintife pleaded out of his fee &c. And vpon that they were at iſſue, and after the auowant made default, & the enqueſt was taken by his default, for that, that it was the ſecond day after the enqueſt ioyned, but if it were the firſt day, then hee ſhalbee diſtrayned to heare the Jurie. My. 20. E. 3.

Note ye, that in theſe caſes following the Jurie ſhalbe taken by default.

In a writ of Annuitie the defendant ſayd, that at the day of the making of the deede he was within age, and vpon that they were at

at issue, and at the day of the enquest the defendant made default, and the enquest taken by his default. H.7.E.3.

Note ye, that in these cases following, though that the defendant make default after the enquest ioyned, yet it shall not be taken by default, but a distres shall go to heare the Jurie. H.18.E.3.

In a Waste the defendaunt pleadeth to the enquest, at which day the defendant maketh default, a distres shalbe awarded to heare the Jurie. Añ 12.E.3.Lib.Ass.

Note ye, by what challenge the array shalbe quashed, and by what not.

In Assise, the array shalbe challenged, for that, that the plaintife was nere to the Bishop of D. and he that arrayed the panell is tenant to the Bishop, and by the Bysshops counsell tharay was made, and thys was holden to be no challenge, for that, that the Bishop was not partie to the plee, except that he had said that they were procured to say otherwise then trouth.

The array was quashed in assise, for that, that it was made by the Bailife that hath maryed the cosin of the plaintife, & that they haue issue. Añ 29.E.3.Lib.Ass.

In Assise, tharay was quashed, for that, that the Shirife hath baptised the sonne & heire of the plaintife, and that was confessed by the Shirife. P.4.E.4.

It is a good challenge to tharay to say, that the Shirife is cosin to the wife of the plaintife.

In

In Assise tharay shall not be quashed, for that, that the Shirife hath maryed the sister of the plaintife (except he say) and so the ray made in a fauourable manner. An. 16. E.3. Lib. Ass.

¶Note the causes of the challenge for Consanguinitie.

A Jurour was challenged, for that, that he was cosin to the wife of the defendant wherefore he was drawne out of the panel. M.3.H.6.

If an Abbot bring an action, it is a good challenge to say, that the Jurour is vncle or brother to a Monke of the same place. T.38.H.6.

¶Note the causes of a Challenge for the Affinitie.

A Jurour was challenged, for that, that he hath baptised the sonne of the plaintyfe, and that was holden a principall challenge. P.19.H.6.

A Jurour was challenged for that, that the sonne of the Jurour hath maried the daughter of the plaintife, and that is no principal challenge, except it be betwixt the partyes selues, that the Juror maried the &c. wherefore these triours enquyred of the fauour. M.3.H.4.

In Attaint, one of the xxiij. was challenged, for that, that he hath maryed the sister of one of the petit Jurors wyues, and it was not allowed.

¶Note

¶Note the cauſes of a Challenge for inſufficiencie.

In a Repleuin, the defendant challenged a Iurour, for that, that he was not ſufficient of the freeholde, that is to ſay, the value of xl.s. And by the opinion of the Court, that was a good challenge, for that, that the auowrie was for ſeruice, but if the auowrie had bene made for damage feſant, otherwyſe had bene. T.4.H.7.

In Dette of xx.li. and damages to x.li. a Iuror was challenged, for that, that he may not diſpende xl.s. and for that cauſe he was treat by the ſtatute. T.3.E.4.

¶Note the cauſes of the challenge for the Hundred.

If a Iurour be challenged for that, that he hath nothing wythin the Hundred by the plaintife, and alſo by the defendant, he ſhalbe drawen out. M.12.E.3.

If a Iurour be challenged, for that, that hee hath nothing within the hundred, the triors ſhall not enquire if hee be dwellyng wythin the hundred, if he haue any thyng within the hundred, and not of the value. Aſſ.19.E.2.

In a writ of Annuitie againſt a Parſon of a Church by preſcription, and alleaged ſeyſine in the ſame County, where the Church is in another hundred: the thirde Iurour was challenged, for that, that he hath nothing within the hundred where the church is, for if he haue nothing in the one hundreth

or

or the other he shalbe sworne, T.11.R.2.

Note ye if one be sworne that hath sufficient in the hundred and after he sel that , and after he is challenged for insufficiency within the hundred, this challenge is not allowable: for that: that when he was admitted and sworne at one time it shall be intended that he hath knowledge of the matter now, & his knowledge by his alienation may not be devested out of his person. H.22.H.6.

And note ye: ꝑ after that fower are sworne of the hundred, a man shall haue no challenge to say that he hath nothing within the hundred. E.7.H.4.M.29.H.6.

And note yee, that after that a man hath challenged the array and that found against him hee may challenge the polles. M.12. E.3.

Note ye: ꝑ when the Iurors are sworne, the parties pray that they may haue keepers, that was denied sitting the court, but after they shall haue. P.7.E.3.

In attaint after that fower of the hundred were sworne, another was challenged for the hundred, and not allowed, yet it was alledged that in the petit Iury that first passed, ought to be viij. of the hundred at the least, and by the same reason. viij. ought to be of the hundred where 24. are sworne if he that challenged the raye will challenge the the polles he shal shew the cause of the challenge euery time certaine afore that ꝑ clerke peruse the panel. E.7.H.4.

A Iurour was challenged for fauor and he

he was found by tryours, that he was indifferent, and afore that he was sworne he was challenged, for that, that he hath nothing within the hundred, is not allowed.

¶ A writ of Nisi prius.

REx Vic' salutem. Præcipimus tibi quód venire facias apud VVestm̃ tali die, vel coram Iusticiarijs nostris ad primas assisas in comitatu tuo capiend' assigñ per formam statuti inde prouis. nisi die Lune &c. apud B. prius veñ xxiiij. tam Milit̃ &c. quam &c. vt in priori breui &c. et qui nec A. nec B. &c. ad recogñ &c. Si prædict' B. tali die & anno, vi & armis, videlicet, gladijs &c. bona et catalla sua iiij. saccas lanę de valenc' xx. Marcar̃ apud H. in comitatu tuo, cepit & abduxit, vt dic', quia tam &c. Et habeas &c. Teste &c.

THis writte is tudiciall and lyeth in case when thenquest is paneld and returned afore the Iustices of the bank, then the one partie or the other may haue this writ for easement of the Countrey, directed to the Shirife, commaunding him that hee cause the men that are impanelled to come afore the Iustices in the same Countie, and there to be determined afore them selfe, if the matter be not so difficult that it may not be tried afore them, for then it shalbe sent into the banke, as afore.

And note ye, by the statut of E. 3. An̄. 14. cap. 15. that this writ shalbe graunted aswell at the suit of the tenant, as at the suit of the demaundant in a writ of Trespas, if the dammages passe xl. s.

And

And note ye, that the Iustices of the common bank hath power to enquire by the Fieri facias of plees moued in the kinges Court. And if the Iustices of the common banke may not come, then in the same maner haue the Iustices of the kinges bench power to take the Nisi prius of plees moued in the common banke.

In Detinue, the plaintif and the garnisheé were at issue, and the plaintife prayed a Nisi prius, and had, & the garnisheé had other with a Prouiso. H.19.H.6.

Note where a man is in execution vpon a statute Marchant, and sueth an Audita querela and are at issue, a Nisi prius shall not bee graunted, for that, that the plaintife may not be delyuered out of prison. P. 15. E.3. T.21. E.3.

In all cases where the king is partie, the Nisi prius shal not be graunted. H.15.E.3.

¶ A writ of Quale ius.

REx Vic' salutem, Scias quód Abbas de N. in curia nostra recuperauit seisinam suam versus B. de vno mesuagio cum pertinentijs in C. vt ius Ecclesiæ suæ Sanctæ Mariæ de N. per defaltam ipsius B. per breue nostrum quare cessauit. Et quia dubitamus de fraude inter eos prælocuta, contra statutum nostrum in quo continetur de terris seu tenementis ad manum mortuã deueñ quoquo mod'. Tibi præcipimus, quod venire facias coram nobis tali die &c. xij. &c. de vicineẽ præd', quorum quilibet &c, per quos &c, et qui nec &c, ad recogñ super sacra-

ſacramentum ſuum, quale ius idem Abbas habet in prædict' meſuag. & quis prędeceſſorum ſuorum fuit inde ſeiſitus de dominico ſeruic' de prędict' meſ. exeunt', vt de iure eccleſiæ ſuę prædict', et quantum prædictum meſuagium valet per annum, ſecundum verum valorem eiuſdem. Et interim meſuag. illud in manum noſtram capias, Ita quod neuter eorum ad illud manum apponat, donec aliud á nobis inde habueris præceptum. Et quod de exitibus eiuſdem meſuag. ad Scaccarium noſtrum reſpondeas. Et ſcire facias capitali domino feodi illius mediat' & immediat', quod tunc ſit ibi auditur' iuratam illam ſi voluerit. Et habeas ibi nomina eorum &c. Teſte &c.

THis writte is iudiciall and lyeth in caſe where an Abbot or Prior or any other man of Religion bringeth a Præcipe quod reddat of lande, and the tenaunt maketh default after default, whereby the land is to be loſt, then the ſame Abbot or Prior that hath recouered ſhall not haue execution of the ſayd lande recouered, afore that he ſue thys writ for the king to the Eſcheatour of the ſame Countie, to enquire what right he that hath recouered hath, and if hee hath right by hys writ, then the iudgement ſhalbee geeuen for hym, and ſhall haue execution of the land recouered, and if it be found that he hath no right by his writ, but the landes were loſt by colluſion betwixt hym and the tenaunt, then it ſhalbe ordred as is geeuen by the ſtatute of Weſtm. 2. cap. 32. which begynneth. Cúm viri religioſi &c. that the next Lord ſhall haue the land as his eſcheate, if he demaunde it

it within the yere after the inquiſition takē. And if he demaunde it not within the yere, then the next Lorde after him ſhall haue the ſayde lande, if he demaunde it within the halfe yere. And if no Lord demaunde nor clayme as afore is ſayd, then the king that is chiefe lord aboue all other ſhal haue the ſayd lande ſo recouered.

In a Quare impedit brought by one R. againſt an abbot, and they were at iſſue and now thenqueſt come, and R. was nonſuite, and the court awarded a writ to the Byſhop for the Abbot without inquirie of the colluſion. T. 19. E. 3.

¶ A writ de Cape magnum.

REx vic' ſalutem. Cape in manū noſtram per viſū legal' hominum de com̄ tuo vnum meſ. cum pertin̄ in N. quod B. tenuit x. die April' Añ &c. ad quorumcunque manus deuenit in ball' tua quod A. que fuit vxor C. in cur' noſtra cor̄ &c. clamat vt dotem verſus prædict̄ B. pro defectu ipſius B. & ideo &c. Et ſum̄ &c. præd̄ B. quod ſit &c. tali die reſponſ. et oſtenſ. quare non fuit cor̄ &c. tal' die quod prædict̄ B. non habet aliquas terras ſeu ten̄ in balliua tua q̄ capi poſſunt in manū noſtram vt teſtatum eſt in eadē curia quod præd̄ B. tali die et Añ &c. tenuit prædict̄ meſ. cum pertineñ vnde pred̄ meſ. capi pot̄ in manum noſtram. Et habeas ibi nomina eorum per quorum viſum hoc feceris ſum̄. Et hoc breue Teſte &c.

THis writ is inditiall, and lyeth where a man hath brought a Precipe quod reddat of a thing that toucheth plee of lande, and the

tenant make default at the day to him geuen in the writ original, then this writ shall go for the king to take the land into the kinges hand, and if he come not at the day geuen by the graund Cape he hath lost his lande. But note ye: that at the first day he may be essoyned. And if at the day of the graunde Cape retornable he commeth, he may excuse his default, as to say, that he was not somoned after the law of the land, & that he is ready to make his law, or to say that he was in prison, or disturbed by water, & in these two last cases, issue may be taken vpon auerment of the country, & for that, the iudgement and knowledge of the imprisonmēt or disturbāce by the water is to be tryed by the countrey. But the first case shalbe tryed, as afore is sayd.

In a Prq redē brought against one H. filiū W. in latin, at the graūd Cape the tenāt said that where the writ was brought against H sonne of W. our father hath to name Edmōd, iudgement of the writ, & it was said that the tenant hath made default in whose mouthe no plee lyeth afore that he hath saued his default but it was awarded that vpon a graūd Cape the tenant shal plede that he is misnamed in abatemēt of the writ afore the default saued and that is for the mischief of the warrant.

¶A writ of Cape paruum.

REx vic' salutem. Cape in manum nostram vnum mes. &c. quod R, in curia nostr' &c, clamat vt ius suum

ſuum verſus A. pro defectu ipſius A. Et ſum̃ per bonos ſum̃ prædict̃ A. quod ſit &c. tali die &c. ad audiendum inde iudic'. Et habeas &c. Teſte &c.

THis writ lieth in caſe where the tenãt is ſummoned in plee of land and commeth at the Somons and his apparance is of record, and after he maketh default at the day that is geuen to him then ſhall go this writ for the king. And note ye that a petit Cape lyeth after apparance and a graund Cape afore apparance.

Note ye: that in a graund Cape the tenãt is ſomoned to aunſwere to the default & ouer to the demaundant. But in a petit Cape the tenant ſhall be ſomoned in aunſwere to the default onely, and it is called a petit Cape: for that, that there is leſſe in this writ then in the graund Cape T. 8. H. 6.

In a Precipe quod reddat brought by a woman, at the petit Cape retourned the tenant ſayd that after the laſt contynuance the demaundant hath taken a huſband iudgement of the writ and it was adiudged, that that was no plee afore that he hath ſaued his default. T. 39. E. 3.

In a Formedon the tenaunt appeared vpon the petit Cape, and would haue pleded that the demaundant hath entred after ꝑ laſt continuance without ſauing his default, but he might not, and after he pleaded a releaſe of al the right. M. 40. E. 3.

¶ A writ of Cape ad valentiam

REx Vic' ſalutem, Cape in manum noſtram per viſum legal' hominum de com̃ tuo de terris A. pro defectu ipſius A. ad valentiam vnius meſ. cum pertiñ in I. quod E. in cur̃ noſtr̃ coram iuſtic' noſtris clamat vt ius ſuum verſus R. vnde idem R. in eadem curia noſtra coram Iuſticiarijs noſtris vocauit predict' A. ad warrantizandum verſus eum & diem captionis Scire facias Iuſtic' noſtris apud w. p̃ literas tuas ſigillatas. Et ſum̃ &c. prædict' A. quod ſit coram &c. tali die reſponſ. et oſtenſ. quare non obſeruauit diem ſibi datum per eſſonium ſuum coram iuſticiarijs noſtris tali die. Et habeas ibi nomina eorum per quorum viſum hoc feceris &c. teſte &c.

THis writ lyeth where I am impleaded of certaine landes, and I bouch to warrant another againſt whom the Somons ad warrantizandum hath bene awarded and the ſherife hath retourned that he was ſummoned and commeth not at the day geuen, then if the demaundant recouer againſt me, I ſhal haue this writ againſt the vouchee, and I ſhall recouer ſo much in value of ꝑ land of ꝑ vouche if he hath ſo much, and if that he haue not ſomuch, then I ſhall haue execution of ſuche landes, and tenements that diſcendeth to him in fee ſimple or if he purchaſe after, I ſhall haue againſt him a reſomons. And if he can nothing ſaye, I ſhall recouer to the value. And note yee that this writ lyeth afore apparance. And in the ſame maner lyeth the petit Cape ad valentiam after apparance.

¶ A writ of Sum̃ ad warrantizandum.

Rex

REx vic. ſal. Sum̃ per bonos ſum̃ A. quod ſit &c. tali die ad warr̃ w. vnum meſ. cum pertiñ in N. quod B. coram iuſtic. noſtris apud w. clamat vt ius ſuum verſus eum. Et vnde I. de w. in eadem cuſ noſtra vocauit præd. A. ad warr̃ verſus eum &c. Et habeas ibi ſum̃. Et hoc breue teſte &c.

This writ lieth where I vouche to warrant another man, then I ſhall haue this writ againſt him to the ſherife commaunding him that he ſummon the vouchee to be afore the Iuſtices at a certaine day at which day if he come not, then ſhall goe the graund cape, and if he come and after make default then ſhall goe the petit cape, as is afore ſaid.

¶ A writ of Sequaſ ſub ſuo periculo.

REx Vic' ſalutem. Sum̃ per bonos ſum̃ E. quod ſit coram Iuſtic' noſtris &c. tali die ad warr̃ A. vñ meſ. cum pertiñ in M. quod R. coram Iuſtic' noſtris apud w. clamat vt ius ſuum verſus eum &c. Teſte &c.

This writ lieth where a Somons ad warrantizandum is awarded. And the ſherife returnes that he hath nothing whereby he may be ſommoned, then ſhall goe ſicut alias et pluries. And if he come not at the Pluries, then then ſhall go this writ De ſequatur ſub ſuo periculo.

¶ A writ of Champartie.

REx Vic' ſalutem. Præcip̃ tibi quod diſtr̃ A. per omnes terras &c. Et quod habeas corpus eius coram Iuſtic' &c. ad reſpond' quare cum inter ceteros articulos quos dominus E. nuper rex Angl' auus

nr̃ ad emendac' ſtatus populi ſui conceſſit, ordinat̃ ſit quod nullus miniſter nr̃ nec aliquis alius pro part̃ rei que eſt in placito habend' negotia que ſunt in placito ſibi aſſumat manutenenda, nec aliquis ius ſuum ſub huius conditione alteri dimittat, ac prædictus R. placitum loquelę quę eſt in curia noſtra &c. inter A. et E. vxorem eius petentes et A. et VV. tenentes de xx. acr̃ terr̃ cum pertiñ in S. pro parte huius tr̃ habend. A. aſſumpſit manutenend' contra formam ordinationis prædict̃, vlterius facturi et recepturi quod cur̃ conſiderauerit in hac parte.

Originale inde eſt tiel.

REx Iuſtic' ſuis de banco ſal'. Cum inter ceteros articulos quos dominus E. quondam rex Angl' progenitor nr̃ ad emend' ſtatus pl'i ſui &c. q̃ nullus miniſter eius nec aliquis alius pro parte rei que eſt in pl'ito habẽd' &c. vt prius: ac L. pl'itũ loq̃le q̃ eſt cor̃ vobis p̃ br̃e nr̃m inter A. petent̃ et B tenent̃ de vno meſ. cũ ptiñ in N. propt̃ p̃ huius. meſ. habend' iã aſſumpſit manutenend' contra formam ordinationis prędict̃ vt accepimus: nos volentes ordinationem illam obſeruari, vobis mandamus quod inſpect̃ tenor̃ ordinationis prædict' vlterius inde faciat̃ quod de iure et ſcdm formam ordinationis prædict̃ fuerit faciendum &c. Teſte &c.

THis writ lyeth where two parties are impleading, & the one of the parties geue to a ſtraunger the halfe, or part of the lande or any other thing that is in plee for defending him againſt the partie, then the partye græued ſhall haue this writ againſt a ſtraũger.

Note yæ, that it is no diuerſitie whether the partie ſell the lande hanging the writt

and

and where he geueth the land, for that, that it is prohibited by the lawe. But a man may make a feffement to his vse hanging the writ M. 8. E. 3.

The father and sonne are, and the father is impleaded, & hanging the suit he infeffeth his sonne, this is no Champerty: for by euery law it is intended that the sonne ought to ayde his father: loke the statute De articulis super Cartas cap. 12. T. 6. E. 3.

Note ye, that it is said, that if a man sell his land to me, and after the land is demaunded against him by writ, and he hanging the writ make liuery and seisō to me of the same lande that is no Champertie for that, that the bargain was not made for such cause M. 29. H. 2.

In det it was awarded &c. that if I. bring a writ of Formedon against one R. in the name of one B. if I recouer with my owne costes and then B. me enfeoffe: this is Champerty &c. But if I. refuse to take the feoffement for doubt of Champerty, & commaunde B. to make a feoffement to another: that is no Champerty &c. quære. M. 42. E. 3.

Finis.

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